

ASSEMBLY, No. 6090

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED DECEMBER 2, 2021

Sponsored by:

Assemblywoman BRITNEE N. TIMBERLAKE

District 34 (Essex and Passaic)

Co-Sponsored by:

Assemblyman Mukherji

SYNOPSIS

Creates “New Jersey Domestic Workers’ Bill of Rights Act.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/2/2021)

1 AN ACT concerning the employment rights of domestic workers and
2 amending and supplementing various parts of the statutory law.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. (New section) The Legislature finds and declares that:

8 a. Domestic workers provide valuable services in industries
9 such as in-home child care, house cleaning, home care, cooking,
10 gardening, and other household occupations.

11 b. The labor domestic workers provide is an important
12 contribution to the State's economy and prosperity, including but not
13 limited to, by providing support services that enable other individuals
14 to participate in the workforce.

15 c. Many domestic workers are women, immigrants, and persons
16 of color who work in or about private homes, isolated from other
17 workers.

18 d. Since 2007, the National Domestic Workers Alliance
19 (NDWA) has advocated for respect for domestic workers by
20 including them in national, State, and local labor protection laws.
21 NDWA. In September 2020, NDWA affiliates, Adhikaar, Casa
22 Freehold, New Labor and Wind of the Spirit, in collaboration with
23 the Center for Women at Work at Rutgers University, released a
24 report which found low pay, lack of benefits, and rampant wage theft
25 occurs throughout the domestic worker industry, and that there is a
26 lack of enforcement regarding existing rights of domestic workers.

27 e. At least 10 other states and two cities have enacted legislation
28 to provide rights, benefits, and protections for domestic workers.

29 f. The Legislature therefore finds that it is in the best interest of
30 the State of New Jersey and its residents to provide rights, benefits,
31 and protections to the countless domestic workers providing valuable
32 services throughout the State.

33

34 2. (New section) As used in P.L. , c. (C.) (pending
35 before the Legislature as this bill):

36 "Casual work" means work that is:

37 (1) irregular, uncertain, or incidental in nature and duration; and
38 (2) different in nature from the type of paid work in which the
39 worker is customarily engaged.

40 "Domestic services" means services of a household nature and
41 performed by an individual in or about a private home on a permanent
42 or temporary basis, and includes services performed by a domestic
43 worker.

44 "Domestic worker" or "worker" means hourly and salaried
45 employees, independent contractors, full-time and part-time

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 individuals and temporary individuals and is narrowly construed to
2 mean any worker who:

3 (1) works for one or more employers; and
4 (2) is an individual who works in residence for the purposes of
5 providing any of the following services: caring for a child; serving as
6 a companion or caretaker for a sick, convalescing, or elderly person,
7 or a person with a disability; housekeeping or house cleaning;
8 cooking; providing food or butler service; parking cars; cleaning
9 laundry; gardening; personal organizing, or for any other domestic
10 service purpose; provided that the term domestic worker does not
11 include:

12 (a) A family member, with “family member” meaning a spouse,
13 child, parent, sibling, aunt, uncle, niece, nephew, first cousin,
14 grandparent, grandchild, father-in-law, mother-in-law, son-in-law,
15 daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half
16 brother, or half sister, whether the individual is related by blood,
17 marriage, or adoption;

18 (b) An individual primarily engaged in house sitting, pet sitting,
19 or dog walking;

20 (c) An individual working at a business operated primarily out of
21 the residence, such as a home day-care business;

22 (d) An individual whose primary work involves household repair
23 or maintenance, such as a roofer, plumber, mason, painter or other
24 similar contractor;

25 (e) A home health care worker while they are paid through public
26 funds, such as a home health care worker while paid through
27 Medicaid or Medicare;

28 (f) An individual established as a kinship legal guardian, as
29 defined by section 2. of P.L.2001, c. 250 (C.3B:12A-2), of a child
30 who lives in the residence, or an individual who participates in the
31 Kinship Navigator Program, as authorized by the Department of
32 Children and Families, as a caregiver of a child who lives in the
33 residence and receives services provided by a kinship navigator
34 service provider; or

35 (g) An individual less than 18 years of age.

36 "Department" means the Department of Labor and Workforce
37 Development.

38 “Employment agency” means any person or entity that procures,
39 or attempts to procure, directly or indirectly through placement in a
40 physical or virtual labor pool:

41 (1) employees, independent contractors, or domestic workers for
42 employers or companies seeking the services of employees,
43 independent contractors, or domestic workers; and

44 (2) after the procurement is complete, continues involvement in
45 the terms of exchange of domestic services with the employees,
46 independent contractors, or domestic workers through activities,
47 including, but not limited to:

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1 (a) processing or distributing or withholding workers' payment
2 that the workers are owed from hiring entities or clients;

3 (b) levying fees, fines, or discipline for unsatisfactory worker
4 behavior that happened during an employment, independent
5 contractor engagement, or other job, including the termination of
6 workers;

7 (c) rating workers on an ongoing basis and publicly sharing those
8 ratings to employers or clients;

9 (d) adjusting wages or payment based on ratings from employers
10 or clients; or

11 (e) other forms of continued involvement after procurement that
12 evidence ongoing control.

13 "Hiring entity" means any employer, as defined in section 1 of
14 P.L.1965, c.173 (C.34:11-4.1), who employs a domestic worker, and
15 also means any person, firm, business, partnership, association,
16 corporation, limited liability company, or other entity, including
17 referral, employment, and internet based or on-demand platforms,
18 that provides compensation directly or indirectly to a domestic
19 worker for the performance of domestic services and any person or
20 persons acting directly or indirectly in the interest of the employer in
21 relation to the domestic worker.

22 "Live-in domestic worker" includes any individuals, who, as part
23 of their employment, reside in the personal residence of the hiring
24 entity

25 "Referral agency" means any person or entity that procures, or
26 attempts to procure, directly or indirectly through placement in a
27 physical or virtual labor pool:

28 (1) employees, independent contractors, or domestic workers for
29 employers or companies seeking the services of employees,
30 independent contractors, or domestic workers; and

31 (2) after the procurement does not continue involvement in the
32 terms of exchange of domestic services with the employees,
33 independent contractors, or domestic workers in any way, with the
34 exception of the following:

35 (a) continuing to display or host or advertise, either through
36 physical means or virtual means, the workers' contact information,
37 job qualifications, resume, image, or digital profile which employers
38 or clients can use to independently contact employees, independent
39 contractors, or domestic workers about employment, independent
40 contractor engagement, or domestic workers about employment,
41 independent contractor engagements, or other jobs; or

42 (b) removing, either through physical means or virtual means, the
43 workers' contact information, job qualifications, resume, image, or
44 digital profile which employers or clients can use to independently
45 contact employees, upon the mandate of any federal, State, or local

46 "Wage" means compensation due to the work of a domestic
47 worker, payable in legal tender of the United States or checks on
48 banks convertible into cash on demand at full face value, subject to

1 any deductions, charges, or allowances as may be permitted by rules
2 of the department.

3 "Written" or "writing" means a printed or printable
4 communication in physical or electronic form, including a
5 communication that is transmitted through email, text message, or a
6 computer system, or is otherwise sent and maintained electronically.

7
8 3. Section 5 of P.L.1945, c.169 (C.10:5-5) is amended to read as
9 follows:

10 5. As used in P.L.1945, c.169 (C.10:5-1 et seq.), unless a
11 different meaning clearly appears from the context:

12 a. "Person" includes one or more individuals, partnerships,
13 associations, organizations, labor organizations, corporations, legal
14 representatives, trustees, trustees in bankruptcy, receivers, and
15 fiduciaries.

16 b. "Employment agency" **【includes any person undertaking to**
17 **procure employees or opportunities for others to work】** shall have the
18 same meaning as in section 2 of P.L. , c. (C.) (pending before
19 the Legislature as this bill).

20 c. "Labor organization" includes any organization which exists
21 and is constituted for the purpose, in whole or in part, of collective
22 bargaining, or of dealing with employers concerning grievances,
23 terms or conditions of employment, or of other mutual aid or
24 protection in connection with employment.

25 d. "Unlawful employment practice" and "unlawful
26 discrimination" include only those unlawful practices and acts
27 specified in section 11 of P.L.1945, c.169 (C.10:5-12).

28 e. "Employer" includes all persons as defined in subsection a. of
29 this section and "hiring entities" as defined by section 2 of P.L. , c.
30 (C.) (pending before the Legislature as this bill), unless otherwise
31 specifically exempt under another section of P.L.1945, c.169
32 (C.10:5-1 et seq.), and includes the State, any political or civil
33 subdivision thereof, and all public officers, agencies, boards, or
34 bodies.

35 f. **【"Employee" does not include any individual employed in the**
36 **domestic service of any person.】** (Deleted by amendment, P.L. , c.
37 (pending before the Legislature as this bill)

38 g. "Liability for service in the Armed Forces of the United
39 States" means subject to being ordered as an individual or member of
40 an organized unit into active service in the Armed Forces of the
41 United States by reason of membership in the National Guard, naval
42 militia or a reserve component of the Armed Forces of the United
43 States, or subject to being inducted into such armed forces through a
44 system of national selective service.

45 h. "Division" means the "Division on Civil Rights" created by
46 P.L.1945, c.169 (C.10:5-1 et seq.).

47 i. "Attorney General" means the Attorney General of the State
48 of New Jersey or the Attorney General's representative or designee.

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- 1 j. "Commission" means the Commission on Civil Rights created
2 by P.L.1945, c.169 (C.10:5-1 et seq.).
- 3 k. "Director" means the Director of the Division on Civil Rights.
- 4 l. "A place of public accommodation" shall include, but not be
5 limited to: any tavern, roadhouse, hotel, motel, trailer camp, summer
6 camp, day camp, or resort camp, whether for entertainment of
7 transient guests or accommodation of those seeking health,
8 recreation, or rest; any producer, manufacturer, wholesaler,
9 distributor, retail shop, store, establishment, or concession dealing
10 with goods or services of any kind; any restaurant, eating house, or
11 place where food is sold for consumption on the premises; any place
12 maintained for the sale of ice cream, ice and fruit preparations or their
13 derivatives, soda water or confections, or where any beverages of any
14 kind are retailed for consumption on the premises; any garage, any
15 public conveyance operated on land or water or in the air or any
16 stations and terminals thereof; any bathhouse, boardwalk, or seashore
17 accommodation; any auditorium, meeting place, or hall; any theatre,
18 motion-picture house, music hall, roof garden, skating rink,
19 swimming pool, amusement and recreation park, fair, bowling alley,
20 gymnasium, shooting gallery, billiard and pool parlor, or other place
21 of amusement; any comfort station; any dispensary, clinic, or
22 hospital; any public library; and any kindergarten, primary and
23 secondary school, trade or business school, high school, academy,
24 college and university, or any educational institution under the
25 supervision of the State Board of Education or the Commissioner of
26 Education of the State of New Jersey. Nothing herein contained shall
27 be construed to include or to apply to any institution, bona fide club,
28 or place of accommodation, which is in its nature distinctly private;
29 nor shall anything herein contained apply to any educational facility
30 operated or maintained by a bona fide religious or sectarian
31 institution, and the right of a natural parent or one in loco parentis to
32 direct the education and upbringing of a child under his control is
33 hereby affirmed; nor shall anything herein contained be construed to
34 bar any private secondary or post-secondary school from using in
35 good faith criteria other than race, creed, color, national origin,
36 ancestry, gender identity, or expression or affectional or sexual
37 orientation in the admission of students.
- 38 m. "A publicly assisted housing accommodation" shall include
39 all housing built with public funds or public assistance pursuant to
40 P.L.1949, c.300, P.L.1941, c.213, P.L.1944, c.169, P.L.1949, c.303,
41 P.L.1938, c.19, P.L.1938, c.20, P.L.1946, c.52, and P.L.1949, c.184,
42 and all housing financed in whole or in part by a loan, whether or not
43 secured by a mortgage, the repayment of which is guaranteed or
44 insured by the federal government or any agency thereof.
- 45 n. The term "real property" includes real estate, lands, tenements
46 and hereditaments, corporeal and incorporeal, and leaseholds,
47 provided, however, that, except as to publicly assisted housing
48 accommodations, the provisions of this act shall not apply to the

1 rental: (1) of a single apartment or flat in a two-family dwelling, the
2 other occupancy unit of which is occupied by the owner as a
3 residence; or (2) of a room or rooms to another person or persons by
4 the owner or occupant of a one-family dwelling occupied by the
5 owner or occupant as a residence at the time of such rental. Nothing
6 herein contained shall be construed to bar any religious or
7 denominational institution or organization, or any organization
8 operated for charitable or educational purposes, which is operated,
9 supervised, or controlled by or in connection with a religious
10 organization, in the sale, lease, or rental of real property, from
11 limiting admission to or giving preference to persons of the same
12 religion or denomination or from making such selection as is
13 calculated by such organization to promote the religious principles
14 for which it is established or maintained. Nor does any provision
15 under this act regarding discrimination on the basis of familial status
16 apply with respect to housing for older persons.

17 o. "Real estate broker" includes a person, firm, or corporation
18 who, for a fee, commission, or other valuable consideration, or by
19 reason of promise or reasonable expectation thereof, lists for sale,
20 sells, exchanges, buys or rents, or offers or attempts to negotiate a
21 sale, exchange, purchase, or rental of real estate or an interest therein,
22 or collects or offers or attempts to collect rent for the use of real
23 estate, or solicits for prospective purchasers or assists or directs in
24 the procuring of prospects or the negotiation or closing of any
25 transaction which does or is contemplated to result in the sale,
26 exchange, leasing, renting, or auctioning of any real estate, or
27 negotiates, or offers or attempts or agrees to negotiate a loan secured
28 or to be secured by mortgage or other encumbrance upon or transfer
29 of any real estate for others; or any person who, for pecuniary gain
30 or expectation of pecuniary gain conducts a public or private
31 competitive sale of lands or any interest in lands. In the sale of lots,
32 the term "real estate broker" shall also include any person,
33 partnership, association, or corporation employed by or on behalf of
34 the owner or owners of lots or other parcels of real estate, at a stated
35 salary, or upon a commission, or upon a salary and commission or
36 otherwise, to sell such real estate, or any parts thereof, in lots or other
37 parcels, and who shall sell or exchange, or offer or attempt or agree
38 to negotiate the sale or exchange, of any such lot or parcel of real
39 estate.

40 p. "Real estate salesperson" includes any person who, for
41 compensation, valuable consideration or commission, or other thing
42 of value, or by reason of a promise or reasonable expectation thereof,
43 is employed by and operates under the supervision of a licensed real
44 estate broker to sell or offer to sell, buy or offer to buy or negotiate
45 the purchase, sale, or exchange of real estate, or offers or attempts to
46 negotiate a loan secured or to be secured by a mortgage or other
47 encumbrance upon or transfer of real estate, or to lease or rent, or
48 offer to lease or rent any real estate for others, or to collect rents for

1 the use of real estate, or to solicit for prospective purchasers or
2 lessees of real estate, or who is employed by a licensed real estate
3 broker to sell or offer to sell lots or other parcels of real estate, at a
4 stated salary, or upon a commission, or upon a salary and
5 commission, or otherwise to sell real estate, or any parts thereof, in
6 lots or other parcels.

7 q. "Disability" means physical or sensory disability, infirmity,
8 malformation, or disfigurement which is caused by bodily injury,
9 birth defect, or illness including epilepsy and other seizure disorders,
10 and which shall include, but not be limited to, any degree of paralysis,
11 amputation, lack of physical coordination, blindness or visual
12 impairment, deafness or hearing impairment, muteness or speech
13 impairment, or physical reliance on a service or guide dog,
14 wheelchair, or other remedial appliance or device, or any mental,
15 psychological, or developmental disability, including autism
16 spectrum disorders, resulting from anatomical, psychological,
17 physiological, or neurological conditions which prevents the typical
18 exercise of any bodily or mental functions or is demonstrable,
19 medically or psychologically, by accepted clinical or laboratory
20 diagnostic techniques. Disability shall also mean AIDS or HIV
21 infection.

22 r. "Blind person" or "person who is blind" means any individual
23 whose central visual acuity does not exceed 20/200 in the better eye
24 with correcting lens or whose visual acuity is better than 20/200 if
25 accompanied by a limit to the field of vision in the better eye to such
26 a degree that its widest diameter subtends an angle of no greater than
27 20 degrees.

28 s. "Guide dog" means a dog used to assist persons who are deaf,
29 or which is fitted with a special harness so as to be suitable as an aid
30 to the mobility of a person who is blind, and is used by a person who
31 is blind and has satisfactorily completed a specific course of training
32 in the use of such a dog, and has been trained by an organization
33 generally recognized by agencies involved in the rehabilitation of
34 persons with disabilities, including, but not limited to, those persons
35 who are blind or deaf, as reputable and competent to provide dogs
36 with training of this type.

37 t. "Guide or service dog trainer" means any person who is
38 employed by an organization generally recognized by agencies
39 involved in the rehabilitation of persons with disabilities, including,
40 but not limited to, those persons who are blind, have visual
41 impairments, or are deaf or have hearing impairments, as reputable
42 and competent to provide dogs with training, as defined in this
43 section, and who is actually involved in the training process.

44 u. "Housing accommodation" means any publicly assisted
45 housing accommodation or any real property, or portion thereof,
46 which is used or occupied, or is intended, arranged, or designed to be
47 used or occupied, as the home, residence, or sleeping place of one or
48 more persons, but shall not include any single family residence the

1 occupants of which rent, lease, or furnish for compensation not more
2 than one room therein.

3 v. "Public facility" means any place of public accommodation
4 and any street, highway, sidewalk, walkway, public building, and any
5 other place or structure to which the general public is regularly,
6 normally, or customarily permitted or invited.

7 w. "Deaf person" or "person who is deaf" means any person
8 whose hearing is so severely impaired that the person is unable to
9 hear and understand conversational speech through the unaided ear
10 alone, and who must depend primarily on an assistive listening
11 device or visual communication such as writing, lip reading, sign
12 language, and gestures.

13 x. "Atypical hereditary cellular or blood trait" means sickle cell
14 trait, hemoglobin C trait, thalassemia trait, Tay-Sachs trait, or cystic
15 fibrosis trait.

16 y. "Sickle cell trait" means the condition wherein the major
17 natural hemoglobin components present in the blood of the individual
18 are hemoglobin A (normal) and hemoglobin S (sickle hemoglobin)
19 as defined by standard chemical and physical analytic techniques,
20 including electrophoresis; and the proportion of hemoglobin A is
21 greater than the proportion of hemoglobin S or one natural parent of
22 the individual is shown to have only normal hemoglobin components
23 (hemoglobin A, hemoglobin A2, hemoglobin F) in the normal
24 proportions by standard chemical and physical analytic tests.

25 z. "Hemoglobin C trait" means the condition wherein the major
26 natural hemoglobin components present in the blood of the individual
27 are hemoglobin A (normal) and hemoglobin C as defined by standard
28 chemical and physical analytic techniques, including electrophoresis;
29 and the proportion of hemoglobin A is greater than the proportion of
30 hemoglobin C or one natural parent of the individual is shown to have
31 only normal hemoglobin components (hemoglobin A, hemoglobin
32 A2, hemoglobin F) in normal proportions by standard chemical and
33 physical analytic tests.

34 aa. "Thalassemia trait" means the presence of the thalassemia
35 gene which in combination with another similar gene results in the
36 chronic hereditary disease Cooley's anemia.

37 bb. "Tay-Sachs trait" means the presence of the Tay-Sachs gene
38 which in combination with another similar gene results in the chronic
39 hereditary disease Tay-Sachs.

40 cc. "Cystic fibrosis trait" means the presence of the cystic fibrosis
41 gene which in combination with another similar gene results in the
42 chronic hereditary disease cystic fibrosis.

43 dd. "Service dog" means any dog individually trained to the
44 requirements of a person with a disability including, but not limited
45 to minimal protection work, rescue work, pulling a wheelchair or
46 retrieving dropped items. This term shall include a "seizure dog"
47 trained to alert or otherwise assist persons with epilepsy or other
48 seizure disorders.

- 1 ee. "Qualified Medicaid applicant" means an individual who is a
2 qualified applicant pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.).
- 3 ff. "AIDS" means acquired immune deficiency syndrome as
4 defined by the Centers for Disease Control and Prevention of the
5 United States Public Health Service.
- 6 gg. "HIV infection" means infection with the human
7 immunodeficiency virus or any other related virus identified as a
8 probable causative agent of AIDS.
- 9 hh. "Affectional or sexual orientation" means male or female
10 heterosexuality, homosexuality, or bisexuality by inclination,
11 practice, identity, or expression, having a history thereof or being
12 perceived, presumed, or identified by others as having such an
13 orientation.
- 14 ii. "Heterosexuality" means affectional, emotional, or physical
15 attraction or behavior which is primarily directed towards persons of
16 the other gender.
- 17 jj. "Homosexuality" means affectional, emotional, or physical
18 attraction or behavior which is primarily directed towards persons of
19 the same gender.
- 20 kk. "Bisexuality" means affectional, emotional, or physical
21 attraction or behavior which is directed towards persons of either
22 gender.
- 23 ll. "Familial status" means being the natural parent of a child, the
24 adoptive parent of a child, the resource family parent of a child,
25 having a "parent and child relationship" with a child as defined by
26 State law, or having sole or joint legal or physical custody, care,
27 guardianship, or visitation with a child, or any person who is pregnant
28 or is in the process of securing legal custody of any individual who
29 has not attained the age of 18 years.
- 30 mm. "Housing for older persons" means housing:
- 31 (1) provided under any State program that the Attorney General
32 determines is specifically designed and operated to assist persons
33 who are elderly (as defined in the State program); or provided under
34 any federal program that the United States Department of Housing
35 and Urban Development determines is specifically designed and
36 operated to assist persons who are elderly (as defined in the federal
37 program); or
- 38 (2) intended for, and solely occupied by, persons 62 years of age
39 or older; or
- 40 (3) intended and operated for occupancy by at least one person 55
41 years of age or older per unit. In determining whether housing
42 qualifies as housing for older persons under this paragraph, the
43 Attorney General shall adopt regulations which require at least the
44 following factors:
- 45 (a) the existence of significant facilities and services specifically
46 designed to meet the physical or social needs of older persons, or if
47 the provision of such facilities and services is not practicable, that

1 such housing is necessary to provide important housing opportunities
2 for older persons; and

3 (b) that at least 80 percent of the units are occupied by at least
4 one person 55 years of age or older per unit; and

5 (c) the publication of, and adherence to, policies and procedures
6 which demonstrate an intent by the owner or manager to provide
7 housing for persons 55 years of age or older.

8 Housing shall not fail to meet the requirements for housing for
9 older persons by reason of: persons residing in such housing as of
10 September 13, 1988 not meeting the age requirements of this
11 subsection, provided that new occupants of such housing meet the
12 age requirements of this subsection; or unoccupied units, provided
13 that such units are reserved for occupancy by persons who meet the
14 age requirements of this subsection.

15 nn. "Genetic characteristic" means any inherited gene or
16 chromosome, or alteration thereof, that is scientifically or medically
17 believed to predispose an individual to a disease, disorder, or
18 syndrome, or to be associated with a statistically significant increased
19 risk of development of a disease, disorder, or syndrome.

20 oo. "Genetic information" means the information about genes,
21 gene products, or inherited characteristics that may derive from an
22 individual or family member.

23 pp. "Genetic test" means a test for determining the presence or
24 absence of an inherited genetic characteristic in an individual,
25 including tests of nucleic acids such as DNA, RNA, and
26 mitochondrial DNA, chromosomes, or proteins in order to identify a
27 predisposing genetic characteristic.

28 qq. "Domestic partnership" means a domestic partnership
29 established pursuant to section 4 of P.L.2003, c.246 (C.26:8A-4).

30 rr. "Gender identity or expression" means having or being
31 perceived as having a gender related identity or expression whether
32 or not stereotypically associated with a person's assigned sex at birth.

33 ss. "Civil Union" means a legally recognized union of two
34 eligible individuals established pursuant to R.S.37:1-1 et seq. and
35 P.L.2006, c.103 (C.37:1-28 et al.).

36 tt. "Premium wages" means additional remuneration for night,
37 weekend, or holiday work, or for standby or irregular duty.

38 uu. "Premium benefit" means an employment benefit, such as
39 seniority, group life insurance, health insurance, disability insurance,
40 sick leave, annual leave, or an educational or pension benefit that is
41 greater than the employment benefit due the employee for an
42 equivalent period of work performed during the regular work
43 schedule of the employee.

44 vv. "Race" is inclusive of traits historically associated with race,
45 including, but not limited to, hair texture, hair types, and protective
46 hairstyles.

47 ww. "Protective hairstyles" includes, but is not limited to, such
48 hairstyles as braids, locks, and twists.

1 xx. "Family member" means a child, parent, parent-in-law,
2 sibling, grandparent, grandchild, spouse, partner in a civil union
3 couple, domestic partner, or any other individual related by blood to
4 the person, and any other individual that the person shows to have a
5 close association with the person which is the equivalent of a family
6 relationship.
7 (cf: P.L.2019, c.436, s.2)

8
9 4. Section 2 of P.L.1965, c.164 (C.34:6A-2) is amended to read
10 as follows:

11 2. The following terms wherever used or referred to in this act
12 shall have the following meaning:

13 (a) "Act" means this act and rules and regulations promulgated
14 hereunder.

15 (b) "Board" means the Industrial Safety Board established under
16 this act.

17 (c) "Bureau" means the Bureau of Engineering and Safety in the
18 Division of Labor, Department of Labor and Industry established
19 under this act.

20 (d) "Commissioner" means the Commissioner of the Department
21 of Labor and Industry or his authorized representatives.

22 (e) "Committee" means the New Jersey State Industrial Safety
23 Committee established under this act.

24 (f) "Department" means the Department of Labor and Industry.

25 (g) "Employee" means any person engaged in service to an
26 employer for wages, salary or other compensation.

27 (h) "Employer" means any person or corporation, partnership,
28 individual proprietorship, joint venture, firm, company or other
29 similar legal entity who engages the services of an employee and who
30 pays his wages, salary, or other compensation; and any person
31 exercising supervision of employees on an employer's behalf; and
32 includes all "hiring entities" as defined by section 2 of P.L. , c.
33 (C.) (pending before the Legislature as this bill).

34 (i) "Owner" means the person possessing legal or equitable title.
35 For the purposes of this act "Person possessing equitable title" shall
36 mean that person or corporation, partnership, individual
37 proprietorship, joint venture, firm, company or other legal entity that
38 has actual control over the premises used in whole or in part as a
39 place of employment.

40 (j) "Place of employment" means any building or other premises
41 occupied by an employer in or about which an employee customarily
42 is suffered or permitted to work.

43 (k) "Domestic worker" means all persons defined as a domestic
44 worker by section 2 of P.L. , c. (C.) (pending before the
45 Legislature as bill).

46 (cf: P.L.1965, c.154, s.2)

1 5. Section 6 of P.L.1965, c.154 (C.34:6A-6) is amended to read
2 as follows:

3 6. a. The commissioner shall enforce the provisions of this act,
4 make complaints against persons violating its provisions and
5 prosecute violations of the same.

6 b. The commissioner shall have the power and authority, without
7 notice or delay during regular working hours or other reasonable
8 hours within reasonable limits and in a reasonable manner, to enter
9 and inspect any place of employment and all pertinent conditions,
10 structures, machinery, apparatus, devices, equipment and materials
11 and to question privately the owner and any employer or employee.

12 c. In the case where the place of employment is a residential
13 dwelling and the employee is a domestic worker, the commissioner
14 or the commissioner's authorized representative shall initiate
15 telephone contact with the hiring entity as soon as possible, but not
16 later than 14 calendar days after receipt of a complaint charging a
17 violation.

18 When telephone contact is successfully made, the commissioner
19 or the authorized representative shall:

20 (1) Notify the hiring entity of the existence of any alleged unsafe
21 or unhealthful condition;

22 (2) Describe the alleged hazard and any specific regulatory
23 standard alleged to have been violated;

24 (3) Inform the hiring entity that the entity is required to
25 investigate and abate any hazard discovered during the investigation
26 regarding violations of section 3 of P.L.1965, c.154 (C.34:6A-3);

27 (4) Inform the hiring entity by letter sent by facsimile or email,
28 or by certified mail if the employer cannot receive facsimile or email,
29 of each alleged hazard and each specific allegation of a violation of
30 a standard;

31 (5) Inform the hiring entity that if the department determines that
32 the hiring entity's response is unsatisfactory for any reason, the
33 department shall seek permission from the hiring entity to enter the
34 residential dwelling to investigate the matter, and if permission is
35 denied, may secure an inspection warrant to conduct an onsite
36 inspection of the residential dwelling; and

37 (6) Provide the complainant with copies of the law and
38 regulations alleged to have been violated, the department's letter to
39 the employer, and all subsequent correspondence concerning the
40 investigation of any alleged hazards;

41 d. A hiring entity subject to investigation shall:

42 (1) Provide the department, within 14 days of the hiring entity's
43 receipt of the department's letter, a response describing the results
44 of the employer's investigation of the alleged hazard and a
45 description of all actions taken, in the process of being taken, or
46 planned to be taken, by the hiring entity to abate the alleged hazard;

47 (2) Provide a copy of the commissioner or the commissioner's
48 authorized representative's letter to the domestic worker, and all

1 subsequent correspondence from and to the hiring entity to the
2 affected domestic worker, or prominently post the letter and
3 correspondence in the method prescribed by letter sent pursuant to
4 subsection c. of this section regarding each alleged hazard and each
5 specific standard to have been violated;

6 e. For complaints alleging serious illness or injury or death
7 while performing domestic services as defined by section 2 of P.L. ,
8 c. (C.) (pending before the Legislature as this bill), the
9 commissioner or the authorized representative may enter the
10 premises with permission or with an inspection warrant issued
11 pursuant to subsection b. of this section without first initiating the
12 telephone contact described in subsection c. of this section.

13 f. Notwithstanding any other provision of this chapter to the
14 contrary, investigations of complaints in domestic services as defined
15 by section 2 of P.L. , c. (C.) (pending before the Legislature
16 as this bill), shall be conducted in a manner to avoid any unwarranted
17 invasion of personal privacy and shall not contain any personal,
18 financial, or medical information of the individuals residing in the
19 residential dwelling that is not pertinent to the investigation of the
20 complaint.

21 g. No person shall obstruct, hinder or delay or interfere with by
22 force or otherwise the performance by the commissioner of any duty
23 under the provisions of this act.

24 (cf: P.L.1973, c.259, s.1)

25
26 6. Section 9 of P.L.1965, c.154 (C.34:6A-9) is amended to read
27 as follows:

28 9. The commissioner shall make and promulgate rules and
29 regulations reasonably necessary to implement the purposes of this
30 act. Such rules and regulations shall have the force and effect of law
31 and shall be enforced in the manner provided in this act.

32 The commissioner shall make and promulgate rules to ensure the
33 requirements of section 3 of P.L.1965, c.154 (C.34:6A-3) apply to
34 the hiring entities of domestic workers. These rules shall include the
35 establishment of a mechanism to receive complaints within the
36 department that prompts inspections by the commissioner in
37 accordance with section 6 of P.L.1965, c.154 (C.34:6A-6).

38 Buildings or other structures in use on the effective date of this act
39 as a place of employment other than a place where the manufacturing
40 of goods of any kind is carried on shall not be made to comply with
41 the requirements of rules and regulations promulgated hereunder
42 substantially affecting such building or other structures unless such
43 compliance is essential to correct an unsafe or unhealthful condition
44 which constitutes a serious and substantial threat to the health or
45 safety of employees.

46 The commissioner shall before promulgation furnish a copy of
47 proposed rules and regulations to the members of the committee for
48 its review and recommendations. Within 90 days of the receipt of

1 said proposed rules and regulations the committee shall provide the
2 commissioner and the board with its written recommendations.
3 Following receipt of the committee's recommendations or upon the
4 expiration of 90 days, the commissioner shall furnish to every
5 member of the board a copy of the proposed rules and regulations
6 with or without change in his discretion and at the same time a notice
7 of intent to promulgate proposed rules and regulations shall be
8 published by the commissioner. This notice of intent shall state
9 briefly the purpose of the proposed rules and regulations, shall state
10 that a copy of the proposed rules and regulations may be obtained by
11 any person upon written request to the department, and shall fix the
12 date, time and place for a public hearing on the proposed rules and
13 regulations, which date shall be not less than 21 days after the
14 publication of the notice. All person appearing at such hearing shall
15 be given the opportunity to be heard. Rules and regulations, as so
16 proposed or as changed by the commissioner after such hearing, may
17 be promulgated by the commissioner 90 days following delivery to
18 the board to be effective on such date as the rules and regulations
19 shall provide unless disapproved by a majority of the board and if so
20 disapproved such rules or regulations shall not become effective.
21 Within 30 days after the public hearing and on 30 days' notice the
22 commissioner shall call a meeting of the board for the purpose of
23 discussing the proposed rules and regulations. If any changes were
24 made in the proposed rules or regulations following the public
25 hearing, a copy of such change shall accompany such notice. At any
26 meeting called for such purpose disapproval shall be by vote of the
27 majority of the members of the board.

28 (cf: P.L.1965, c.154, s.9)

29
30 7. Section 19 of P.L.1965, c.154 (C.34:6A-19) is amended to
31 read as follows:

32 19. Any person violating any of the provisions of this act shall be
33 liable to a penalty of not less than **["\$25.00"]** \$975 nor more than
34 **["\$500.00"]** \$13,653 to be collected in a civil action by a summary
35 proceeding under the Penalty Enforcement Law **["(N.J.S. 2A:58-1)"]**
36 of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). Notwithstanding the
37 penalties prescribed in this section, the penalty amounts shall be
38 subject to adjustment by the commissioner to remain consistent with
39 the federal Occupational Safety and Health Act of 1970 (29 U.S.C. s.
40 651 et seq.). 50 percent of the sum collected as a penalty pursuant to
41 this subsection shall be provided to the employee harmed by
42 violation. Any violation of the act by an officer, agent or employee
43 shall also be a violation of the act by his employer if such employer
44 had knowledge of and actual control over the cause of such violation.
45 Where the violation is of a continuing nature each day during which
46 it continues, after the date given by which the violation must be
47 eliminated in the order by the commissioner, shall constitute an

1 additional, separate and distinct offense, except during the time an
2 appeal from said order may be taken or is pending.

3 The commissioner is hereby authorized and empowered to
4 compromise and settle any claim for a penalty under this section in
5 such amount in the discretion of the commissioner as may appear
6 appropriate and equitable under all of the circumstances.

7 Nothing in this subsection shall affect the rights of employees or
8 any remedies available to employees provided by section 5 of
9 P.L.1986, c.105 (C.34:19-5) or any other provision of law.

10 (cf: P.L.1965 c.154, s.19)

11
12 8. Section 22 of P.L.1965, c.154 (C34:6A-22) is amended to
13 read as follows:

14 22. This act is not intended to apply and shall not apply to the
15 following:

16 (a) Places of employment under the exclusive jurisdiction of the
17 Federal Government with respect to the health and safety of
18 employees;

19 (b) Places of employment subject to the provisions of the Mine
20 Safety Act, P.L.1954, c. 197;

21 (c) Employment and places of employment subject to the
22 provisions of the Construction Safety Act, P.L.1962, c. 45;

23 (d) **【Domestic employment;】** (Deleted by amendment, P.L. , c.
24 (pending before the Legislature as this bill)

25 (e) Transportation equipment coming under the jurisdiction of
26 the Interstate Commerce Commission, Federal Aviation
27 Administration, or of the New Jersey Division of Motor Vehicles;

28 (f) **【Institutions requiring a license issued by the Department of**
29 **Institutions and Agencies pursuant to Revised Statutes 30:11-1;】**
30 (Deleted by amendment, P.L. , c. (pending before the Legislature
31 as this bill)

32 (g) Schools, colleges and universities;

33 (h) Places of employment with fewer than 4 employees, except
34 places of employment of domestic services; employment in which
35 the manufacturing of goods of any kind is carried on; and except as
36 hereinafter provided in paragraph (o) of this section;

37 (i) Agricultural employment;

38 (j) Banks and other financial institutions;

39 (k) Places of employment in which the employees are primarily
40 engaged in office operations and buildings under the actual control
41 of one employer and in which the employees are primarily engaged
42 in office operations or laboratories primarily engaged in research,
43 development, or testing conducted on premises, in separate
44 buildings, or in building sections devoted exclusively to these
45 operations;

46 (l) Public utilities which own, operate, manage or control any
47 autobus, canal, express, railroad, street railway, traction railway,
48 subway, pipeline, gas, electric light, heat, power, water, oil, sewer,

1 telephone or telegraph system, plant or equipment for public use,
2 under privileges granted by the State or by any political subdivision
3 thereof, with respect to work operations performed in connection
4 with the plant or facilities of such public utility located in the public
5 streets and highways, roads and alleys, private rights-of-way, or upon
6 their customers' premises;

7 (m) Liquefied petroleum gas bulk plants and facilities subject to
8 the jurisdiction and supervision of the Superintendent of State Police,
9 pursuant to chapter 139 of the laws of 1950 (N.J.S.A. 21:1B-1 to
10 21:1B-8);

11 (n) Natural gas pipeline utilities subject to the provisions of the
12 Natural Gas Safety Act (P.L.1952, c. 166) (N.J.S.A. 48:10-2 to
13 48:10-9); and

14 (o) Establishments with fewer than 10 employees and which are
15 devoted exclusively to the sale of goods, or furnishing of services, at
16 retail.

17 (cf: P.L.1965, c.154, s.22)

18
19 9. Section 2 of P.L.1966, c.113 (C.34:11-56a1) is amended to
20 read as follows:

21 2. As used in this act:

22 (a) "Commissioner" means the Commissioner of Labor and
23 Workforce Development.

24 (b) "Director" means the director in charge of the bureau referred
25 to in section 3 of this act.

26 (c) "Wage board" means a board created as provided in section
27 10 of this act.

28 (d) "Wages" means any moneys due an employee from an
29 employer for services rendered or made available by the employee to
30 the employer as a result of their employment relationship including
31 commissions, bonus and piecework compensation and including the
32 fair value of any food or lodgings supplied by an employer to an
33 employee, and, until December 31, 2018, "wages" includes any
34 gratuities received by an employee for services rendered for an
35 employer or a customer of an employer. The commissioner may, by
36 regulation, establish the average value of gratuities received by an
37 employee in any occupation and the fair value of food and lodging
38 provided to employees in any occupation, which average values shall
39 be acceptable for the purposes of determining compliance with this
40 act in the absence of evidence of the actual value of such items.

41 (e) "Regular hourly wage" means the amount that an employee is
42 regularly paid for each hour of work as determined by dividing the
43 total hours of work during the week into the employee's total earnings
44 for the week, exclusive of overtime premium pay.

45 (f) "Employ" includes to suffer or to permit to work.

46 (g) "Employer" includes any individual, partnership, association,
47 corporation, and the State and any county, municipality, or school
48 district in the State, or any agency, authority, department, bureau, or

1 instrumentality thereof, or any person or group of persons acting
2 directly or indirectly in the interest of an employer in relation to an
3 employee, and includes “hiring entities” as defined in section 2 of
4 P.L. , c. (C.) (pending before the Legislature as this bill).

5 (h) "Employee" includes any individual employed by an
6 employer.

7 (i) "Occupation" means any occupation, service, trade, business,
8 industry or branch or group of industries or employment or class of
9 employment in which employees are gainfully employed.

10 (j) "Minimum fair wage order" means a wage order promulgated
11 pursuant to this act.

12 (k) "Fair wage" means a wage fairly and reasonably
13 commensurate with the value of the service or class of service
14 rendered and sufficient to meet the minimum cost of living necessary
15 for health.

16 (l) "Oppressive and unreasonable wage" means a wage which is
17 both less than the fair and reasonable value of the service rendered
18 and less than sufficient to meet the minimum cost of living necessary
19 for health.

20 (m) "Limousine" means a motor vehicle used in the business of
21 carrying passengers for hire to provide prearranged passenger
22 transportation at a premium fare on a dedicated, nonscheduled,
23 charter basis that is not conducted on a regular route and with a
24 seating capacity in no event of more than 14 passengers, not
25 including the driver, provided, that such a motor vehicle shall not
26 have a seating capacity in excess of four passengers, not including
27 the driver, beyond the maximum passenger seating capacity of the
28 vehicle, not including the driver, at the time of manufacture.
29 "Limousine" shall not include taxicabs, hotel or airport shuttles and
30 buses, buses employed solely in transporting school children or
31 teachers to and from school, vehicles owned and operated directly or
32 indirectly by businesses engaged in the practice of mortuary science
33 when those vehicles are used exclusively for providing transportation
34 related to the provision of funeral services or vehicles owned and
35 operated without charge or remuneration by a business entity for its
36 own purposes.

37 (n) "Seasonal employment" means employment during a year by
38 an employer that is a seasonal employer, or employment by a non-
39 profit or government entity of an individual who is not employed by
40 that employer outside of the period of that year commencing on May
41 1 and ending September 30, or employment by a governmental entity
42 in a recreational program or service during the period commencing
43 on May 1 and ending September 30, except that "seasonal
44 employment" does not include employment of employees engaged to
45 labor on a farm on either a piece-rate or regular hourly rate basis.

46 (o) "Seasonal employer" means an employer who exclusively
47 provides its services in a continuous period of not more than ten
48 weeks during the months of June, July, August, and September, or an

1 employer for which, during the immediately previous calendar year,
2 not less than two thirds of the employer's gross receipts were received
3 in a continuous period of not more than sixteen weeks or for which
4 not less than 75 percent of the wages paid by the employer during the
5 immediately preceding year were paid for work performed during a
6 single calendar quarter.

7 (p) "Small employer" means any employer who employed less
8 than six employees for every working day during each of a majority
9 of the calendar workweeks in the current calendar year and less than
10 six employees for every working day during not less than 48 calendar
11 workweeks in the preceding calendar year, except that, if the
12 employer was newly established during the preceding calendar year,
13 the employer shall be regarded as a "small employer" if the employer
14 employed less than six employees for every working day during all
15 of the weeks of that year, and during a majority of the calendar
16 workweeks in the current calendar year, and, if the employer is newly
17 established during the current calendar year, the employer shall be
18 regarded as a "small employer" if the employer employed less than
19 six employees for every working day during a majority of the
20 calendar workweeks in the current calendar year.

21 (q) "Long-term care facility direct care staff member" means any
22 health care professional licensed or certified pursuant to Title 26 or
23 Title 45 of the Revised Statutes who is employed by a long-term care
24 facility and who provides personal care, assistance, or treatment
25 services directly to residents of the facility in the course of the
26 professional's regular duties.

27 (cf: P.L.2020, c.89, s.1)

28
29 10. Section 5 of P.L.1966, c.113 (C.34:11-56a4) is amended to
30 read as follows:

31 5. a. Except as provided in subsections c., d., e. g., and i. of this
32 section, each employer shall pay to each of his employees wages at a
33 rate of not less than \$8.85 per hour as of January 1, 2019 and, on
34 January 1 of 2020 and January 1 of each subsequent year, the
35 minimum wage shall be increased by any increase in the consumer
36 price index for all urban wage earners and clerical workers (CPI-W)
37 as calculated by the federal government for the 12 months prior to
38 the September 30 preceding that January 1, except that any of the
39 following rates shall apply if it exceeds the rate determined in
40 accordance with the applicable increase in the CPI-W for the
41 indicated year: on July 1, 2019, the minimum wage shall be \$10.00
42 per hour; on January 1, 2020, the minimum wage shall be \$11.00 per
43 hour; and on January 1 of each year from 2021 to 2024, inclusive, the
44 minimum wage shall be increased from the rate of the preceding year
45 by \$1.00 per hour. If the federal minimum hourly wage rate set by
46 section 6 of the federal "Fair Labor Standards Act of 1938" (29
47 U.S.C. s.206), or a successor federal law, is raised to a level higher
48 than the State minimum wage rate set by this subsection, then the

1 State minimum wage rate shall be increased to the level of the federal
2 minimum wage rate and subsequent increases based on increases in
3 the CPI-W pursuant to this section shall be applied to the higher
4 minimum wage rate. If an applicable wage order has been issued by
5 the commissioner under section 17 (C.34:11-56a16) of this act, the
6 employer shall also pay not less than the wages prescribed in said
7 order. The wage rates fixed in this section shall not be applicable to
8 **【part-time employees primarily engaged in the care and tending of**
9 **children in the home of the employer, to】** persons under the age of
10 18 not possessing a special vocational school graduate permit issued
11 pursuant to section 15 of P.L.1940, c.153 (C.34:2-21.15), or to
12 persons employed as salesmen of motor vehicles, or to persons
13 employed as outside salesmen as such terms shall be defined and
14 delimited in regulations adopted by the commissioner, or to persons
15 employed in a volunteer capacity and receiving only incidental
16 benefits at a county or other agricultural fair by a nonprofit or
17 religious corporation or a nonprofit or religious association which
18 conducts or participates in that fair.

19 b. (1) An employer shall also pay each employee not less than
20 1 1/2 times such employee's regular hourly rate for each hour of
21 working time in excess of 40 hours in any week, except that this
22 overtime rate shall not apply: to any individual employed in a bona
23 fide executive, administrative, or professional capacity; or to
24 employees engaged to labor on a farm or employed in a hotel; or to
25 an employee of a common carrier of passengers by motor bus; or to
26 a limousine driver who is an employee of an employer engaged in the
27 business of operating limousines; or to employees engaged in labor
28 relative to the raising or care of livestock.

29 (2) Employees engaged on a piece-rate or regular hourly rate
30 basis to labor on a farm shall be paid for each day worked not less
31 than the applicable minimum hourly wage rate multiplied by the total
32 number of hours worked.

33 (3) Full-time students may be employed by the college or
34 university at which they are enrolled at not less than 85% of the
35 effective applicable minimum wage rate.

36 c. Employees of a small employer, and employees who are
37 engaged in seasonal employment, except for employees who
38 customarily and regularly receive gratuities or tips who shall be
39 subject to the provisions of subsections a. and d. of this section, shall
40 be paid \$8.85 per hour as of January 1, 2019 and, on January 1 of
41 2020 and January 1 of each subsequent year, that minimum wage rate
42 shall be increased by any increase in the consumer price index for all
43 urban wage earners and clerical workers (CPI-W) as calculated by
44 the federal government for the 12 months prior to the September 30
45 preceding that January 1, except that any of the following rates shall
46 apply if it exceeds the rate determined in accordance with the
47 applicable increase in the CPI-W for the indicated year: on January
48 1, 2020, the minimum wage shall be \$10.30 per hour; and on January

1 1 of each year from 2021 to 2025, inclusive, the minimum wage shall
2 be increased from the rate of the preceding year by eighty cents per
3 hour, and, in 2026, the minimum wage shall be increased from the
4 rate of the preceding year by seventy cents per hour, and, in each year
5 from 2027 to 2028 inclusive, the minimum wage for employees
6 subject to this subsection c. shall be increased by the same amount as
7 the increase for employees subject to subsection a. of this section
8 based on CPI-W increases, plus one half of the difference between
9 \$15.00 per hour and the minimum wage in effect in 2026 for
10 employees pursuant to subsection a. of this section, so that, by 2028,
11 the minimum wage for employees subject to this subsection shall be
12 the same as the minimum wage in effect for employees subject to
13 subsection a. of this section. If the federal minimum hourly wage
14 rate set by section 6 of the federal "Fair Labor Standards Act of 1938"
15 (29 U.S.C. s.206), or a successor federal law, is raised to a level
16 higher than the State minimum wage rate set by this subsection, then
17 the State minimum wage rate shall be increased to the level of the
18 federal minimum wage rate and subsequent increases based on
19 increases in the CPI-W pursuant to this subsection shall be applied to
20 the higher minimum wage rate.

21 d. Employees engaged on a piece-rate or regular hourly rate
22 basis to labor on a farm shall be paid \$8.85 per hour as of January 1,
23 2019 and, on January 1 of 2020 and January 1 of each subsequent
24 year, that minimum wage rate shall be increased by any increase in
25 the consumer price index for all urban wage earners and clerical
26 workers (CPI-W) as calculated by the federal government for the 12
27 months prior to the September 30 preceding that January 1, except
28 that any of the following rates shall apply if it exceeds the rate
29 determined in accordance with the applicable increase in the CPI-W
30 for the indicated year:

31 (1) on January 1, 2020, the minimum wage shall be \$10.30 per
32 hour; on January 1, 2022, the minimum wage shall be \$10.90 per
33 hour; and on January 1 of each year from 2023 to 2024, inclusive, the
34 minimum wage shall be increased from the rate of the preceding year
35 by eighty cents per hour; and

36 (2) subject to the provisions of paragraph (3) of this subsection
37 d., minimum wage rates shall be increased as follows: on January 1
38 of 2025, the minimum wage shall be increased to \$13.40, and on
39 January 1 of each year from 2026 to 2027, inclusive, the minimum
40 wage shall be increased from the rate of the preceding year by eighty
41 cents per hour, and, in each year from 2028 to 2030 inclusive, the
42 minimum wage for employees subject to this subsection d. shall be
43 increased during that year by the same amount as the increase in that
44 year for employees subject to subsection a. of this section based on
45 CPI-W increases, plus one third of the difference between \$15.00 per
46 hour and the minimum wage in effect in 2027 for employees pursuant
47 to subsection a. of this section, so that, by 2030, the minimum wage
48 for employees subject to this subsection shall be the same as the

1 minimum wage in effect for employees subject to subsection a. of
2 this section.

3 (3) Not later than March 31, 2024, the commissioner and the
4 Secretary of Agriculture shall review the report issued by the
5 commissioner pursuant to subsection b. of section 4 of P.L.2019, c.32
6 (C.34:11-56a4.10) and shall consider any information provided by
7 the secretary regarding the impact on farm employers and the
8 viability of the State's agricultural industry of the increases of the
9 minimum wage made pursuant to paragraph (1) of this subsection,
10 and the potential impact of the increases which would be set by
11 paragraph (2) of this subsection, including comparisons with the
12 wage rates in the agricultural industries in other states, and shall
13 recommend: approval of the increases set forth in paragraph (2) of
14 this subsection; disapproval of the increases set forth in paragraph (2)
15 of this subsection; or an alternative manner of changing the minimum
16 wage after 2024 for employees engaged on a piece-rate or regular
17 hourly rate basis to labor on a farm. In contemplation of the
18 possibility that the commissioner and the secretary are unable to
19 agree on the recommendation required by this paragraph, by
20 December 31, 2021, the Governor shall appoint a public member
21 subject to advice and consent by the Senate, who will serve as a tie-
22 breaking member if needed. The increases set forth in paragraph (2)
23 of this subsection shall take effect unless there is a recommendation
24 pursuant to this paragraph to disapprove the increases or for an
25 alternative manner of changing the minimum wage after 2024 for
26 employees engaged on a piece-rate or regular hourly rate basis to
27 labor on a farm and the Legislature, not later than June 30, 2024,
28 enacts a concurrent resolution approving the implementation of that
29 recommendation. Beginning in 2024, the commissioner, secretary,
30 and public member shall meet biennially to make either a one or two
31 year recommendation to the Legislature for implementation by way
32 of concurrent resolution.

33 (4) If the federal minimum hourly wage rate set by section 6 of
34 the federal "Fair Labor Standards Act of 1938" (29 U.S.C. s.206), or
35 a successor federal law, is raised to a level higher than the State
36 minimum wage rate set by this subsection, then the State minimum
37 wage rate shall be increased to the level of the federal minimum wage
38 rate and subsequent increases based on increases in the CPI-W
39 pursuant to this subsection shall be applied to the higher minimum
40 wage rate.

41 e. With respect to an employee who customarily and regularly
42 receives gratuities or tips, every employer is entitled to a credit for
43 the gratuities or tips received by the employee against the hourly
44 wage rate that would otherwise be paid to the employee pursuant to
45 subsection a. of this section of the following amounts: after
46 December 31, 2018 and before July 1, 2019, \$6.72 per hour; after
47 June 30, 2019 and before January 1, 2020, \$7.37 per hour; during
48 calendar years 2020, 2021 and 2022, \$7.87 per hour; during calendar

1 year 2023, \$8.87 per hour; and during calendar year 2024 and
2 subsequent calendar years, \$9.87 per hour.

3 f. Notwithstanding the provisions of this section to the contrary,
4 every trucking industry employer shall pay to all drivers, helpers,
5 loaders and mechanics for whom the Secretary of Transportation may
6 prescribe maximum hours of work for the safe operation of vehicles,
7 pursuant to section 31502(b) of the federal Motor Carrier Act, 49
8 U.S.C.s.31502(b), an overtime rate not less than 1 1/2 times the
9 minimum wage required pursuant to this section and N.J.A.C. 12:56-
10 3.1. Employees engaged in the trucking industry shall be paid no less
11 than the minimum wage rate as provided in this section and N.J.A.C.
12 12:56-3.1. As used in this section, "trucking industry employer"
13 means any business or establishment primarily operating for the
14 purpose of conveying property from one place to another by road or
15 highway, including the storage and warehousing of goods and
16 property. Such an employer shall also be subject to the jurisdiction
17 of the Secretary of Transportation pursuant to the federal Motor
18 Carrier Act, 49 U.S.C.s.31501 et seq., whose employees are exempt
19 under section 213(b)(1) of the federal "Fair Labor Standards Act of
20 1938," 29 U.S.C. s.213(b)(1), which provides an exemption to
21 employees regulated by section 207 of the federal "Fair Labor
22 Standards Act of 1938," 29 U.S.C. s.207, and the Interstate
23 Commerce Act, 49 U.S.C. s.501 et al.

24 g. Commencing on January 1, 2020, a training wage of not less
25 than 90 percent of the minimum wage rate otherwise set pursuant to
26 subsection a. of this section may be paid to an employee who is
27 enrolled in an established employer on-the-job or other training
28 program which meets standards set by regulations adopted by the
29 commissioner. The period during which an employer may pay the
30 training wage to the employee shall be the first 120 hours of work
31 after hiring the employee in employment in an occupation in which
32 the employee has no previous similar or related experience. An
33 employer shall not utilize any employee paid the training wage in a
34 manner which causes, induces, encourages or assists any
35 displacement or partial displacement of any currently employed
36 worker, including any previous recipient of the training wage, by
37 reducing hours of a currently employed worker, replacing a current
38 or laid off employee with a trainee, or by relocating operations
39 resulting in a loss of employment at a previous workplace, or in a
40 manner which replaces, supplants, competes with or duplicates any
41 approved apprenticeship program. An employer who pays an
42 employee a training wage shall make a good faith effort to continue
43 to employ the employee after the period of the training wage expires
44 and shall not hire the employee at the training wage unless there is a
45 reasonable expectation that there will be regular employment, paying
46 at or above the effective minimum wage, for the trainee upon the
47 successful completion of the period of the training wage. If the
48 commissioner determines that an employer has made repeated,

1 knowing violations of the provisions of this subsection regarding the
2 payment of a training wage, the commissioner shall suspend the
3 employer's right to pay a training wage for a period set pursuant to
4 regulations adopted by the commissioner, but not less than three
5 years.

6 h. The provisions of this section shall not be construed as
7 prohibiting any political subdivision of the State from adopting an
8 ordinance, resolution, regulation or rule, or entering into any
9 agreement, establishing any standard for vendors, contractors and
10 subcontractors of the subdivision regarding wage rates or overtime
11 compensation which is higher than the standards provided for in this
12 section, and no provision of any other State or federal law
13 establishing a minimum standard regarding wages or other terms and
14 conditions of employment shall be construed as preventing a political
15 subdivision of the State from adopting an ordinance, resolution,
16 regulation or rule, or entering into any agreement, establishing a
17 standard for vendors, contractors and subcontractors of the
18 subdivision which is higher than the State or federal law or which
19 otherwise provides greater protections or rights to employees of the
20 vendors, contractors and subcontractors of the subdivision, unless the
21 State or federal law expressly prohibits the subdivision from adopting
22 the ordinance, resolution, regulation or rule, or entering into the
23 agreement.

24 i. Effective on the first day of the second month next following
25 the effective date of P.L.2020, c.89 (C.30:4D-7cc et al.), the
26 minimum wage for long-term care facility direct care staff members
27 shall be in an amount that is \$3 higher than the prevailing minimum
28 wage established pursuant to subsection a. of this section.

29 (cf: P.L.2020, c.89, s.2)

30
31 11. Section 1 of P.L.1952, c.9 (C.34:11-56.1) is amended to read
32 as follows:

33 1. As used in this act:

34 a. "Employee" includes any person, either male or female,
35 employed by an employer, but shall not include persons performing
36 volunteer service for nonprofit organizations or corporations nor
37 persons employed on a farm[, or in domestic service in a private
38 home,] or in a hotel.

39 b. "Employer" includes any person acting directly or indirectly
40 in the interest, or as agent, of an employer in relation to an employee
41 and further includes one or more individuals, partnerships,
42 corporations, associations, legal representatives, trustees, trustees in
43 bankruptcy, or receivers, and "hiring entities" as defined by section
44 2 of P.L. , c (C.) (pending before the Legislature as this
45 bill), such term shall not include nonprofit hospital associations or
46 corporations.

47 c. "Employ" includes to suffer or permit to work.

1 d. "Occupation" includes any industry, trade, business or branch
2 thereof, or any employment or class of employment.

3 e. "Commissioner" means the Commissioner of Labor and
4 **【Industry】** Workforce Development of the State of New Jersey.

5
6 12. R.S.34:15-36 is amended to read as follows:

7 34:15-36. "Willful negligence" within the intent of this chapter
8 shall consist of (1) deliberate act or deliberate failure to act, or (2)
9 such conduct as evidences reckless indifference to safety, or (3)
10 intoxication, operating as the proximate cause of injury, or (4)
11 unlawful use of a controlled dangerous substance as defined in the
12 "New Jersey Controlled Dangerous Substances Act," P.L.1970, c.226
13 (C.24:21-1 et seq.).

14 "Employer" **【is declared to be synonymous with master, and】**
15 includes natural persons, partnerships, **【and】** corporations, and
16 "hiring entities" as defined by section 2 of P.L. , c. (C.)
17 (pending before the Legislature as this bill); "employee" 【is
18 synonymous with servant, and】 includes all natural persons,
19 including officers of corporations, who perform service for an
20 employer for financial consideration, exclusive of (1) employees
21 eligible under the federal "Longshore and Harbor Workers'
22 Compensation Act," 44 Stat. 1424 (33 U.S.C.s.901 et seq.), for
23 benefits payable with respect to accidental death or injury, or
24 occupational disease or infection; and (2) casual employments, which
25 shall be defined**【, if in connection with the employer's business, as**
26 **employment the occasion for which arises by chance or is purely**
27 **accidental; or if not in connection with any business of the employer,**
28 **as employment not regular, periodic or recurring;】 as work that is:**

29 (a) irregular, uncertain, or incidental in nature or duration; and

30 (b) different in nature from the type of paid work in which the
31 worker is customarily engaged, provided, however, that forest fire
32 wardens and forest firefighters employed by the State of New Jersey
33 shall, in no event, be deemed casual employees.

34 An individual providing services for remuneration shall be
35 regarded as an employee of an employer for the purposes of the
36 workers' compensation law, R.S.34:15-1 et seq. unless and until it is
37 shown to the satisfaction of the division that:

38 (a) the individual has been and will continue to be free from
39 control or direction over the performance of such service, both under
40 his contract of service and in fact; and

41 (b) the service is either outside the usual course of the business
42 for which the service is performed, or that such service is performed
43 outside of all the places of business of the enterprise for which such
44 service is performed; and

45 (c) the individual is customarily engaged in an independently
46 established trade, occupation, profession, or business.

1 A self-employed person, partners of a limited liability partnership,
2 members of a limited liability company or partners of a partnership
3 who actively perform services on behalf of the self-employed
4 person's business, the limited liability partnership, limited liability
5 company or the partnership shall be deemed an "employee" of the
6 business, limited liability partnership, limited liability company or
7 partnership for purposes of receipt of benefits and payment of
8 premiums pursuant to this chapter, if the business, limited liability
9 partnership, limited liability company or partnership elects, when the
10 workers' compensation policy of the business, limited liability
11 partnership, limited liability company or partnership is purchased or
12 renewed, to obtain coverage for the person, the limited liability
13 partners, the limited liability company members or the partners. If
14 the business, limited liability partnership, limited liability company
15 or partnership elects to obtain coverage for the self-employed person,
16 limited liability partners, limited liability company members or the
17 partners, the election may only be made at purchase or at renewal and
18 may not be withdrawn during the policy term. If the business, limited
19 liability partnership, limited liability company or partnership
20 performs services covered under a homeowner's policy or other
21 policies providing comprehensive personal liability insurance for
22 domestic **【servants】** employees, household employees or the
23 dependents thereof, the workers' compensation policy of the
24 business, limited liability partnership, limited liability company or
25 partnership shall have primary responsibility for the payment of
26 benefits. Notwithstanding the provisions of R.S.34:15-71 and 34:15-
27 72, the business, limited liability partnership, limited liability
28 company or partnership shall not be required to purchase a policy
29 unless the business, limited liability partnership, limited liability
30 company or partnership is an "employer" of a least one employee as
31 defined in this section who is not a self-employed person, limited
32 liability partner, limited liability company member or partner
33 actively performing services on behalf of the business, limited
34 liability partnership, limited liability company or partnership.

35 Notwithstanding any other provision of law to the contrary, no
36 insurer or insurance producer **【as defined in section 2 of P.L.1987,**
37 **c.293 (C.17:22A-2)】** shall be liable in an action for damages on
38 account of the failure of a business, limited liability partnership,
39 limited liability company or partnership to elect to obtain workers'
40 compensation coverage for a self-employed person, limited liability
41 partner, limited liability company member or partner, unless the
42 insurer or insurance producer causes damage by a willful, wanton or
43 grossly negligent act of commission or omission. Every application
44 for workers' compensation made on or after the effective date of this
45 amendatory act shall include notice, as approved by the
46 Commissioner of Banking and Insurance, concerning the availability
47 of workers' compensation coverage for self-employed persons,
48 limited liability partners, limited liability company members or

1 partners. That application shall also contain a notice of election of
2 coverage and shall clearly state that coverage for self-employed
3 persons, limited liability partners, limited liability company members
4 and partners shall not be provided under the policy unless the
5 application containing the notice of election is executed and filed
6 with the insurer or insurance producer. The application containing
7 the notice of election shall also contain a statement that the insurer
8 or insurance producer shall not be liable in an action for damages on
9 account of the failure of a business, limited liability partnership,
10 limited liability company or partnership to elect to obtain workers'
11 compensation coverage for a self-employed person, limited liability
12 partner, limited liability company member or partner, unless the
13 insurer or insurance producer causes damage by a willful, wanton or
14 grossly negligent act of commission or omission. The failure of a
15 self-employed person, limited liability partnership, limited liability
16 company or partnership to elect to obtain workers' compensation
17 coverage for the self-employed person, the limited liability partners,
18 the limited liability company members or the partners shall not affect
19 benefits available under any other accident or health policy.

20 Employment shall be deemed to commence when an employee
21 arrives at the employer's place of employment to report for work and
22 shall terminate when the employee leaves the employer's place of
23 employment, excluding areas not under the control of the employer;
24 provided, however, when the employee is required by the employer
25 to be away from the employer's place of employment, the employee
26 shall be deemed to be in the course of employment when the
27 employee is engaged in the direct performance of duties assigned or
28 directed by the employer; but the employment of employee paid
29 travel time by an employer for time spent traveling to and from a job
30 site or of any employee who utilizes an employer authorized vehicle
31 shall commence and terminate with the time spent traveling to and
32 from a job site or the authorized operation of a vehicle on business
33 authorized by the employer. Travel by a policeman, fireman, or a
34 member of a first aid or rescue squad, in responding to and returning
35 from an emergency, shall be deemed to be in the course of
36 employment.

37 Employment shall also be deemed to commence when an
38 employee is traveling in a ridesharing arrangement between his or
39 her place of residence or terminal near such place and his or her place
40 of employment, if one of the following conditions is satisfied: the
41 vehicle used in the ridesharing arrangement is owned, leased or
42 contracted for by the employer, or the employee is required by the
43 employer to travel in a ridesharing arrangement as a condition of
44 employment.

45 "Disability permanent in quality and partial in character" means a
46 permanent impairment caused by a compensable accident or
47 compensable occupational disease, based upon demonstrable
48 objective medical evidence, which restricts the function of the body

1 or of its members or organs; included in the criteria which shall be
2 considered shall be whether there has been a lessening to a material
3 degree of an employee's working ability. Subject to the above
4 provisions, nothing in this definition shall be construed to preclude
5 benefits to a worker who returns to work following a compensable
6 accident even if there be no reduction in earnings. Injuries such as
7 minor lacerations, minor contusions, minor sprains, and scars which
8 do not constitute significant permanent disfigurement, and
9 occupational disease of a minor nature such as mild dermatitis and
10 mild bronchitis shall not constitute permanent disability within the
11 meaning of this definition.

12 "Disability permanent in quality and total in character" means a
13 physical or neuropsychiatric total permanent impairment caused by a
14 compensable accident or compensable occupational disease, where
15 no fundamental or marked improvement in such condition can be
16 reasonably expected.

17 Factors other than physical and neuropsychiatric impairments may
18 be considered in the determination of permanent total disability,
19 where such physical and neuropsychiatric impairments constitute at
20 least 75% or higher of total disability.

21 "Ridesharing" means the transportation of persons in a motor
22 vehicle, with a maximum carrying capacity of not more than 15
23 passengers, including the driver, where such transportation is
24 incidental to the purpose of the driver. This term shall include such
25 ridesharing arrangements known as carpools and vanpools.

26 "Medical services, medical treatment, physicians' services and
27 physicians' treatment" shall include, but not be limited to, the
28 services which a chiropractor is authorized by law to perform and
29 which are authorized by an employer pursuant to the provisions of
30 R.S.34:15-1 et seq.

31 (cf: P.L.1999, c.383, s.1)

32

33 13. R.S.34:15-92 is amended to read as follows:

34 34:15-92. **【Each employer】** Employers and hiring entities of
35 domestic **【servants or household employees】** workers and every
36 stock company or mutual association affording insurance for the
37 liability of such employers by reason of that employment shall be
38 exempted from the provisions of **【 R.S. 34:15-79, and】** R.S. 34:15-
39 80**【**. The provisions of **】** and R.S. 34:15-81 **【shall not be applicable**
40 **where the insurance coverage is afforded pursuant to P.L....., c.....**
41 **(now pending before the Legislature as Assembly Bill No. 949 of**
42 **1978)**】**, but are required to provide written notice of insurance**
43 **coverage and cancellation of a policy.**

44 (cf: P.L.1979, c.380, s.3)

45

46 14. R.S.43:21-19 is amended to read as follows:

1 43:21-19. Definitions. As used in this chapter (R.S.43:21-1 et
2 seq.), unless the context clearly requires otherwise:

3 (a) (1) "Annual payroll" means the total amount of wages paid
4 during a calendar year (regardless of when earned) by an employer
5 for employment.

6 (2) "Average annual payroll" means the average of the annual
7 payrolls of any employer for the last three or five preceding calendar
8 years, whichever average is higher, except that any year or years
9 throughout which an employer has had no "annual payroll" because
10 of military service shall be deleted from the reckoning; the "average
11 annual payroll" in such case is to be determined on the basis of the
12 prior three or five calendar years in each of which the employer had
13 an "annual payroll" in the operation of his business, if the employer
14 resumes his business within 12 months after separation, discharge or
15 release from such service, under conditions other than dishonorable,
16 and makes application to have his "average annual payroll"
17 determined on the basis of such deletion within 12 months after he
18 resumes his business; provided, however, that "average annual
19 payroll" solely for the purposes of paragraph (3) of subsection (e) of
20 R.S.43:21-7 means the average of the annual payrolls of any
21 employer on which he paid contributions to the State disability
22 benefits fund for the last three or five preceding calendar years,
23 whichever average is higher; provided further that only those wages
24 be included on which employer contributions have been paid on or
25 before January 31 (or the next succeeding day if such January 31 is a
26 Saturday or Sunday) immediately preceding the beginning of the 12-
27 month period for which the employer's contribution rate is computed.

28 (b) "Benefits" means the money payments payable to an
29 individual, as provided in this chapter (R.S.43:21-1 et seq.), with
30 respect to his unemployment.

31 (c) (1) "Base year" with respect to benefit years commencing on
32 or after July 1, 1986, shall mean the first four of the last five
33 completed calendar quarters immediately preceding an individual's
34 benefit year.

35 With respect to a benefit year commencing on or after July 1,
36 1995, if an individual does not have sufficient qualifying weeks or
37 wages in his base year to qualify for benefits, the individual shall
38 have the option of designating that his base year shall be the
39 "alternative base year," which means the last four completed calendar
40 quarters immediately preceding the individual's benefit year; except
41 that, with respect to a benefit year commencing on or after October
42 1, 1995, if the individual also does not have sufficient qualifying
43 weeks or wages in the last four completed calendar quarters
44 immediately preceding his benefit year to qualify for benefits,
45 "alternative base year" means the last three completed calendar
46 quarters immediately preceding his benefit year and, of the calendar
47 quarter in which the benefit year commences, the portion of the
48 quarter which occurs before the commencing of the benefit year.

1 The division shall inform the individual of his options under this
2 section as amended by P.L.1995, c.234. If information regarding
3 weeks and wages for the calendar quarter or quarters immediately
4 preceding the benefit year is not available to the division from the
5 regular quarterly reports of wage information and the division is not
6 able to obtain the information using other means pursuant to State or
7 federal law, the division may base the determination of eligibility for
8 benefits on the affidavit of an individual with respect to weeks and
9 wages for that calendar quarter. The individual shall furnish payroll
10 documentation, if available, in support of the affidavit. A
11 determination of benefits based on an alternative base year shall be
12 adjusted when the quarterly report of wage information from the
13 employer is received if that information causes a change in the
14 determination.

15 (2) With respect to a benefit year commencing on or after June 1,
16 1990 for an individual who immediately preceding the benefit year
17 was subject to a disability compensable under the provisions of the
18 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25
19 et seq.), "base year" shall mean the first four of the last five
20 completed calendar quarters immediately preceding the individual's
21 period of disability, if the employment held by the individual
22 immediately preceding the period of disability is no longer available
23 at the conclusion of that period and the individual files a valid claim
24 for unemployment benefits after the conclusion of that period. For
25 the purposes of this paragraph, "period of disability" means the
26 period defined as a period of disability by section 3 of the
27 "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-27).
28 An individual who files a claim under the provisions of this
29 paragraph (2) shall not be regarded as having left work voluntarily
30 for the purposes of subsection (a) of R.S.43:21-5.

31 (3) With respect to a benefit year commencing on or after June 1,
32 1990 for an individual who immediately preceding the benefit year
33 was subject to a disability compensable under the provisions of the
34 workers' compensation law (chapter 15 of Title 34 of the Revised
35 Statutes), "base year" shall mean the first four of the last five
36 completed calendar quarters immediately preceding the individual's
37 period of disability, if the period of disability was not longer than two
38 years, if the employment held by the individual immediately
39 preceding the period of disability is no longer available at the
40 conclusion of that period and if the individual files a valid claim for
41 unemployment benefits after the conclusion of that period. For the
42 purposes of this paragraph, "period of disability" means the period
43 from the time at which the individual becomes unable to work
44 because of the compensable disability until the time that the
45 individual becomes able to resume work and continue work on a
46 permanent basis. An individual who files a claim under the
47 provisions of this paragraph (3) shall not be regarded as having left
48 work voluntarily for the purposes of subsection (a) of R.S.43:21-5.

1 (d) "Benefit year" with respect to any individual means the 364
2 consecutive calendar days beginning with the day on, or as of, which
3 he first files a valid claim for benefits, and thereafter beginning with
4 the day on, or as of, which the individual next files a valid claim for
5 benefits after the termination of his last preceding benefit year. Any
6 claim for benefits made in accordance with subsection (a) of
7 R.S.43:21-6 shall be deemed to be a "valid claim" for the purpose of
8 this subsection if (1) he is unemployed for the week in which, or as
9 of which, he files a claim for benefits; and (2) he has fulfilled the
10 conditions imposed by subsection (e) of R.S.43:21-4.

11 (e) (1) "Division" means the Division of Unemployment and
12 Temporary Disability Insurance of the Department of Labor and
13 Workforce Development, and any transaction or exercise of authority
14 by the director of the division thereunder, or under this chapter
15 (R.S.43:21-1 et seq.), shall be deemed to be performed by the
16 division.

17 (2) "Controller" means the Office of the Assistant Commissioner
18 for Finance and Controller of the Department of Labor and
19 Workforce Development, established by the 1982 Reorganization
20 Plan of the Department of Labor.

21 (f) "Contributions" means the money payments to the State
22 Unemployment Compensation Fund, required by R.S.43:21-7.
23 "Payments in lieu of contributions" means the money payments to the
24 State Unemployment Compensation Fund by employers electing or
25 required to make payments in lieu of contributions, as provided in
26 section 3 or section 4 of P.L.1971, c.346 (C.43:21-7.2 or 43:21-7.3).

27 (g) "Employing unit" means the State or any of its
28 instrumentalities or any political subdivision thereof or any of its
29 instrumentalities or any instrumentality of more than one of the
30 foregoing or any instrumentality of any of the foregoing and one or
31 more other states or political subdivisions or any individual or type
32 of organization, any partnership, association, trust, estate, joint-stock
33 company, insurance company or corporation, whether domestic or
34 foreign, or the receiver, trustee in bankruptcy, trustee or successor
35 thereof, or the legal representative of a deceased person, which has
36 or subsequent to January 1, 1936, had in its employ one or more
37 individuals performing services for it within this State. All
38 individuals performing services within this State for any employing
39 unit which maintains two or more separate establishments within this
40 State shall be deemed to be employed by a single employing unit for
41 all the purposes of this chapter (R.S.43:21-1 et seq.). Each individual
42 employed to perform or to assist in performing the work of any agent
43 or employee of an employing unit shall be deemed to be employed
44 by such employing unit for all the purposes of this chapter
45 (R.S.43:21-1 et seq.), whether such individual was hired or paid
46 directly by such employing unit or by such agent or employee;
47 provided the employing unit had actual or constructive knowledge of
48 the work.

1 (h) "Employer" means:

2 (1) Any employing unit which in either the current or the
3 preceding calendar year paid remuneration for employment in the
4 amount of \$1,000.00 or more;

5 (2) Any employing unit (whether or not an employing unit at the
6 time of acquisition) which acquired the organization, trade or
7 business, or substantially all the assets thereof, of another which, at
8 the time of such acquisition, was an employer subject to this chapter
9 (R.S.43:21-1 et seq.);

10 (3) Any employing unit which acquired the organization, trade or
11 business, or substantially all the assets thereof, of another employing
12 unit and which, if treated as a single unit with such other employing
13 unit, would be an employer under paragraph (1) of this subsection;

14 (4) Any employing unit which together with one or more other
15 employing units is owned or controlled (by legally enforceable means
16 or otherwise), directly or indirectly by the same interests, or which
17 owns or controls one or more other employing units (by legally
18 enforceable means or otherwise), and which, if treated as a single unit
19 with such other employing unit or interest, would be an employer
20 under paragraph (1) of this subsection;

21 (5) Any employing unit for which service in employment as
22 defined in R.S.43:21-19 (i) (1) (B) (i) is performed after December
23 31, 1971; and as defined in R.S.43:21-19 (i) (1) (B) (ii) is performed
24 after December 31, 1977;

25 (6) Any employing unit for which service in employment as
26 defined in R.S.43:21-19 (i) (1) (c) is performed after December 31,
27 1971 and which in either the current or the preceding calendar year
28 paid remuneration for employment in the amount of \$1,000.00 or
29 more;

30 (7) Any employing unit not an employer by reason of any other
31 paragraph of this subsection (h) for which, within either the current
32 or preceding calendar year, service is or was performed with respect
33 to which such employing unit is liable for any federal tax against
34 which credit may be taken for contributions required to be paid into
35 a state unemployment fund; or which, as a condition for approval of
36 the "unemployment compensation law" for full tax credit against the
37 tax imposed by the Federal Unemployment Tax Act, is required
38 pursuant to such act to be an employer under this chapter (R.S.43:21-
39 1 et seq.);

40 (8) (Deleted by amendment; P.L.1977, c.307.)

41 (9) (Deleted by amendment; P.L.1977, c.307.)

42 (10) (Deleted by amendment; P.L.1977, c.307.)

43 (11) Any employing unit subject to the provisions of the Federal
44 Unemployment Tax Act within either the current or the preceding
45 calendar year, except for employment hereinafter excluded under
46 paragraph (7) of subsection (i) of this section;

1 (12) Any employing unit for which agricultural labor in
2 employment as defined in R.S.43:21-19 (i) (1) (I) is performed after
3 December 31, 1977;

4 (13) (a) Any employing unit for which domestic service in
5 employment as defined in R.S.43:21-19 (i) (1) (J) is performed after
6 December 31, 1977 and before January 1, 2022; and

7 (b) Any employing unit or hiring entity for domestic services as
8 defined in section 2 of P.L. , c. (C.)(pending before the
9 Legislature as this bill);

10 (14) Any employing unit which having become an employer
11 under the "unemployment compensation law" (R.S.43:21-1 et seq.),
12 has not under R.S.43:21-8 ceased to be an employer; or for the
13 effective period of its election pursuant to R.S.43:21-8, any other
14 employing unit which has elected to become fully subject to this
15 chapter (R.S.43:21-1 et seq.).

16 (i) (1) "Employment" means:

17 (A) Any service performed prior to January 1, 1972, which was
18 employment as defined in the "unemployment compensation law"
19 (R.S.43:21-1 et seq.) prior to such date, and, subject to the other
20 provisions of this subsection, service performed on or after January
21 1, 1972, including service in interstate commerce, performed for
22 remuneration or under any contract of hire, written or oral, express
23 or implied.

24 (B) (i) Service performed after December 31, 1971 by an
25 individual in the employ of this State or any of its instrumentalities
26 or in the employ of this State and one or more other states or their
27 instrumentalities for a hospital or institution of higher education
28 located in this State, if such service is not excluded from
29 "employment" under paragraph (D) below.

30 (ii) Service performed after December 31, 1977, in the employ of
31 this State or any of its instrumentalities or any political subdivision
32 thereof or any of its instrumentalities or any instrumentality of more
33 than one of the foregoing or any instrumentality of the foregoing and
34 one or more other states or political subdivisions, if such service is
35 not excluded from "employment" under paragraph (D) below.

36 (C) Service performed after December 31, 1971 by an individual
37 in the employ of a religious, charitable, educational, or other
38 organization, which is excluded from "employment" as defined in the
39 Federal Unemployment Tax Act, solely by reason of section 3306
40 (c)(8) of that act, if such service is not excluded from "employment"
41 under paragraph (D) below.

42 (D) For the purposes of paragraphs (B) and (C), the term
43 "employment" does not apply to services performed

44 (i) In the employ of (I) a church or convention or association of
45 churches, or (II) an organization, or school which is operated
46 primarily for religious purposes and which is operated, supervised,
47 controlled or principally supported by a church or convention or
48 association of churches;

- 1 (ii) By a duly ordained, commissioned, or licensed minister of a
- 2 church in the exercise of his ministry or by a member of a religious
- 3 order in the exercise of duties required by such order;
- 4 (iii) Prior to January 1, 1978, in the employ of a school which is
- 5 not an institution of higher education, and after December 31, 1977,
- 6 in the employ of a governmental entity referred to in R.S.43:21-19
- 7 (i) (1) (B), if such service is performed by an individual in the
- 8 exercise of duties
- 9 (aa) as an elected official;
- 10 (bb) as a member of a legislative body, or a member of the
- 11 judiciary, of a state or political subdivision;
- 12 (cc) as a member of the State National Guard or Air National
- 13 Guard;
- 14 (dd) as an employee serving on a temporary basis in case of fire,
- 15 storm, snow, earthquake, flood or similar emergency;
- 16 (ee) in a position which, under or pursuant to the laws of this
- 17 State, is designated as a major nontenured policy making or advisory
- 18 position, or a policy making or advisory position, the performance of
- 19 the duties of which ordinarily does not require more than eight hours
- 20 per week; or
- 21 (iv) By an individual receiving rehabilitation or remunerative
- 22 work in a facility conducted for the purpose of carrying out a program
- 23 of rehabilitation of individuals whose earning capacity is impaired by
- 24 age or physical or mental deficiency or injury or providing
- 25 remunerative work for individuals who because of their impaired
- 26 physical or mental capacity cannot be readily absorbed in the
- 27 competitive labor market;
- 28 (v) By an individual receiving work-relief or work-training as
- 29 part of an unemployment work-relief or work-training program
- 30 assisted in whole or in part by any federal agency or an agency of a
- 31 state or political subdivision thereof; or
- 32 (vi) Prior to January 1, 1978, for a hospital in a State prison or
- 33 other State correctional institution by an inmate of the prison or
- 34 correctional institution and after December 31, 1977, by an inmate of
- 35 a custodial or penal institution.
- 36 (E) The term "employment" shall include the services of an
- 37 individual who is a citizen of the United States, performed outside
- 38 the United States after December 31, 1971 (except in Canada and in
- 39 the case of the Virgin Islands, after December 31, 1971) and prior to
- 40 January 1 of the year following the year in which the U.S. Secretary
- 41 of Labor approves the unemployment compensation law of the Virgin
- 42 Islands, under section 3304 (a) of the Internal Revenue Code of 1986
- 43 (26 U.S.C. s.3304 (a)) in the employ of an American employer (other
- 44 than the service which is deemed employment under the provisions
- 45 of R.S.43:21-19 (i) (2) or (5) or the parallel provisions of another
- 46 state's unemployment compensation law), if
- 47 (i) The American employer's principal place of business in the
- 48 United States is located in this State; or

1 (ii) The American employer has no place of business in the United
2 States, but (I) the American employer is an individual who is a
3 resident of this State; or (II) the American employer is a corporation
4 which is organized under the laws of this State; or (III) the American
5 employer is a partnership or trust and the number of partners or
6 trustees who are residents of this State is greater than the number who
7 are residents of another state; or

8 (iii) None of the criteria of divisions (i) and (ii) of this
9 subparagraph (E) is met but the American employer has elected to
10 become an employer subject to the "unemployment compensation
11 law" (R.S.43:21-1 et seq.) in this State, or the American employer
12 having failed to elect to become an employer in any state, the
13 individual has filed a claim for benefits, based on such service, under
14 the law of this State;

15 (iv) An "American employer," for the purposes of this
16 subparagraph (E), means (I) an individual who is a resident of the
17 United States; or (II) a partnership, if two-thirds or more of the
18 partners are residents of the United States; or (III) a trust, if all the
19 trustees are residents of the United States; or (IV) a corporation
20 organized under the laws of the United States or of any state.

21 (F) Notwithstanding R.S.43:21-19 (i) (2), all service performed
22 after January 1, 1972 by an officer or member of the crew of an
23 American vessel or American aircraft on or in connection with such
24 vessel or aircraft, if the operating office from which the operations
25 of such vessel or aircraft operating within, or within and without, the
26 United States are ordinarily and regularly supervised, managed,
27 directed, and controlled, is within this State.

28 (G) Notwithstanding any other provision of this subsection,
29 service in this State with respect to which the taxes required to be
30 paid under any federal law imposing a tax against which credit may
31 be taken for contributions required to be paid into a state
32 unemployment fund or which as a condition for full tax credit against
33 the tax imposed by the Federal Unemployment Tax Act is required
34 to be covered under the "unemployment compensation law"
35 (R.S.43:21-1 et seq.).

36 (H) The term "United States" when used in a geographical sense
37 in subsection R.S.43:21-19 (i) includes the states, the District of
38 Columbia, the Commonwealth of Puerto Rico and, effective on the
39 day after the day on which the U.S. Secretary of Labor approves for
40 the first time under section 3304 (a) of the Internal Revenue Code of
41 1986 (26 U.S.C. s.3304 (a)) an unemployment compensation law
42 submitted to the Secretary by the Virgin Islands for such approval,
43 the Virgin Islands.

44 (I) (i) Service performed after December 31, 1977 in agricultural
45 labor in a calendar year for an entity which is an employer as defined
46 in the "unemployment compensation law," (R.S.43:21-1 et seq.) as of
47 January 1 of such year; or for an employing unit which

1 (aa) during any calendar quarter in either the current or the
2 preceding calendar year paid remuneration in cash of \$20,000.00 or
3 more for individuals employed in agricultural labor, or

4 (bb) for some portion of a day in each of 20 different calendar
5 weeks, whether or not such weeks were consecutive, in either the
6 current or the preceding calendar year, employed in agricultural labor
7 10 or more individuals, regardless of whether they were employed at
8 the same moment in time.

9 (ii) for the purposes of this subsection any individual who is a
10 member of a crew furnished by a crew leader to perform service in
11 agricultural labor for any other entity shall be treated as an employee
12 of such crew leader

13 (aa) if such crew leader holds a certification of registration under
14 the Migrant and Seasonal Agricultural Worker Protection Act,
15 Pub.L.97-470 (29 U.S.C. s.1801 et seq.), or P.L.1971, c.192
16 (C.34:8A-7 et seq.); or substantially all the members of such crew
17 operate or maintain tractors, mechanized harvesting or cropdusting
18 equipment, or any other mechanized equipment, which is provided
19 by such crew leader; and

20 (bb) if such individual is not an employee of such other person
21 for whom services were performed.

22 (iii) For the purposes of subparagraph (I) (i) in the case of any
23 individual who is furnished by a crew leader to perform service in
24 agricultural labor or any other entity and who is not treated as an
25 employee of such crew leader under (I) (ii)

26 (aa) such other entity and not the crew leader shall be treated as
27 the employer of such individual; and

28 (bb) such other entity shall be treated as having paid cash
29 remuneration to such individual in an amount equal to the amount of
30 cash remuneration paid to such individual by the crew leader (either
31 on his own behalf or on behalf of such other entity) for the service in
32 agricultural labor performed for such other entity.

33 (iv) For the purpose of subparagraph (I)(ii), the term "crew
34 leader" means an individual who

35 (aa) furnishes individuals to perform service in agricultural labor
36 for any other entity;

37 (bb) pays (either on his own behalf or on behalf of such other
38 entity) the individuals so furnished by him for the service in
39 agricultural labor performed by them; and

40 (cc) has not entered into a written agreement with such other
41 entity under which such individual is designated as an employee of
42 such other entity.

43 (J) (i) Domestic service after December 31, 1977 and before
44 January 1, 2022 performed in the private home of an employing unit
45 which paid cash remuneration of \$1,000.00 or more to one or more
46 individuals for such domestic service in any calendar quarter in the
47 current or preceding calendar year.

1 (ii) Domestic services as defined by section 2 of P.L. , c.
2 (C.) (pending before the Legislature as this bill) after December
3 31, 2021 in either the current or preceding calendar year paid
4 remuneration for employment in the amount of \$1,000 or more.

5 (2) The term "employment" shall include an individual's entire
6 service performed within or both within and without this State if:

7 (A) The service is localized in this State; or

8 (B) The service is not localized in any state but some of the
9 service is performed in this State, and (i) the base of operations, or,
10 if there is no base of operations, then the place from which such
11 service is directed or controlled, is in this State; or (ii) the base of
12 operations or place from which such service is directed or controlled
13 is not in any state in which some part of the service is performed, but
14 the individual's residence is in this State.

15 (3) Services performed within this State but not covered under
16 paragraph (2) of this subsection shall be deemed to be employment
17 subject to this chapter (R.S.43:21-1 et seq.) if contributions are not
18 required and paid with respect to such services under an
19 unemployment compensation law of any other state or of the federal
20 government.

21 (4) Services not covered under paragraph (2) of this subsection
22 and performed entirely without this State, with respect to no part of
23 which contributions are required and paid under an unemployment
24 compensation law of any other state or of the federal government,
25 shall be deemed to be employment subject to this chapter (R.S.43:21-
26 1 et seq.) if the individual performing such services is a resident of
27 this State and the employing unit for whom such services are
28 performed files with the division an election that the entire service of
29 such individual shall be deemed to be employment subject to this
30 chapter (R.S.43:21-1 et seq.).

31 (5) Service shall be deemed to be localized within a state if:

32 (A) The service is performed entirely within such state; or

33 (B) The service is performed both within and without such state,
34 but the service performed without such state is incidental to the
35 individual's service within the state; for example, is temporary or
36 transitory in nature or consists of isolated transactions.

37 (6) Services performed by an individual for remuneration shall be
38 deemed to be employment subject to this chapter (R.S.43:21-1 et
39 seq.) unless and until it is shown to the satisfaction of the division
40 that:

41 (A) Such individual has been and will continue to be free from
42 control or direction over the performance of such service, both under
43 his contract of service and in fact; and

44 (B) Such service is either outside the usual course of the business
45 for which such service is performed, or that such service is performed
46 outside of all the places of business of the enterprise for which such
47 service is performed; and

1 (C) Such individual is customarily engaged in an independently
2 established trade, occupation, profession or business.

3 (7) Provided that such services are also exempt under the Federal
4 Unemployment Tax Act, as amended, or that contributions with
5 respect to such services are not required to be paid into a state
6 unemployment fund as a condition for a tax offset credit against the
7 tax imposed by the Federal Unemployment Tax Act, as amended, the
8 term "employment" shall not include:

9 (A) Agricultural labor performed prior to January 1, 1978; and
10 after December 31, 1977, only if performed in a calendar year for an
11 entity which is not an employer as defined in the "unemployment
12 compensation law," (R.S.43:21-1 et seq.) as of January 1 of such
13 calendar year; or unless performed for an employing unit which

14 (i) during a calendar quarter in either the current or the preceding
15 calendar year paid remuneration in cash of \$20,000.00 or more to
16 individuals employed in agricultural labor, or

17 (ii) for some portion of a day in each of 20 different calendar
18 weeks, whether or not such weeks were consecutive, in either the
19 current or the preceding calendar year, employed in agricultural labor
20 10 or more individuals, regardless of whether they were employed at
21 the same moment in time;

22 (B) Domestic service in a private home performed prior to
23 January 1, 1978; and after December 31, 1977, unless performed in
24 the private home of an employing unit which paid cash remuneration
25 of \$1,000.00 or more to one or more individuals for such domestic
26 service in any calendar quarter in the current or preceding calendar
27 year;

28 (C) Service performed by an individual in the employ of his son,
29 daughter or spouse, and service performed by a child under the age
30 of 18 in the employ of his father or mother;

31 (D) Service performed prior to January 1, 1978, in the employ of
32 this State or of any political subdivision thereof or of any
33 instrumentality of this State or its political subdivisions, except as
34 provided in R.S.43:21-19 (i) (1) (B) above, and service in the employ
35 of the South Jersey Port Corporation or its successors;

36 (E) Service performed in the employ of any other state or its
37 political subdivisions or of an instrumentality of any other state or
38 states or their political subdivisions to the extent that such
39 instrumentality is with respect to such service exempt under the
40 Constitution of the United States from the tax imposed under the
41 Federal Unemployment Tax Act, as amended, except as provided in
42 R.S.43:21-19 (i) (1) (B) above;

43 (F) Service performed in the employ of the United States
44 Government or of any instrumentality of the United States exempt
45 under the Constitution of the United States from the contributions
46 imposed by the "unemployment compensation law," except that to
47 the extent that the Congress of the United States shall permit states
48 to require any instrumentalities of the United States to make

1 payments into an unemployment fund under a state unemployment
2 compensation law, all of the provisions of this act shall be applicable
3 to such instrumentalities, and to service performed for such
4 instrumentalities, in the same manner, to the same extent and on the
5 same terms as to all other employers, employing units, individuals
6 and services; provided that if this State shall not be certified for any
7 year by the Secretary of Labor of the United States under section
8 3304 of the federal Internal Revenue Code of 1986 (26 U.S.C.
9 s.3304), the payments required of such instrumentalities with respect
10 to such year shall be refunded by the division from the fund in the
11 same manner and within the same period as is provided in R.S.43:21-
12 14 (f) with respect to contributions erroneously paid to or collected
13 by the division;

14 (G) Services performed in the employ of fraternal beneficiary
15 societies, orders, or associations operating under the lodge system or
16 for the exclusive benefit of the members of a fraternity itself
17 operating under the lodge system and providing for the payment of
18 life, sick, accident, or other benefits to the members of such society,
19 order, or association, or their dependents;

20 (H) Services performed as a member of the board of directors, a
21 board of trustees, a board of managers, or a committee of any bank,
22 building and loan, or savings and loan association, incorporated or
23 organized under the laws of this State or of the United States, where
24 such services do not constitute the principal employment of the
25 individual;

26 (I) Service with respect to which unemployment insurance is
27 payable under an unemployment insurance program established by
28 an Act of Congress;

29 (J) Service performed by agents of mutual fund brokers or dealers
30 in the sale of mutual funds or other securities, by agents of insurance
31 companies, exclusive of industrial insurance agents or by agents of
32 investment companies, if the compensation to such agents for such
33 services is wholly on a commission basis;

34 (K) Services performed by real estate salesmen or brokers who are
35 compensated wholly on a commission basis;

36 (L) Services performed in the employ of any veterans'
37 organization chartered by Act of Congress or of any auxiliary thereof,
38 no part of the net earnings of which organization, or auxiliary thereof,
39 inures to the benefit of any private shareholder or individual;

40 (M) Service performed for or in behalf of the owner or operator
41 of any theater, ballroom, amusement hall or other place of
42 entertainment, not in excess of 10 weeks in any calendar year for the
43 same owner or operator, by any leader or musician of a band or
44 orchestra, commonly called a "name band," entertainer, vaudeville
45 artist, actor, actress, singer or other entertainer;

46 (N) Services performed after January 1, 1973 by an individual for
47 a labor union organization, known and recognized as a union local,
48 as a member of a committee or committees reimbursed by the union

1 local for time lost from regular employment, or as a part-time officer
2 of a union local and the remuneration for such services is less than
3 \$1,000.00 in a calendar year;

4 (O) Services performed in the sale or distribution of merchandise
5 by home-to-home salespersons or in-the-home demonstrators whose
6 remuneration consists wholly of commissions or commissions and
7 bonuses;

8 (P) Service performed in the employ of a foreign government,
9 including service as a consular, nondiplomatic representative, or
10 other officer or employee;

11 (Q) Service performed in the employ of an instrumentality wholly
12 owned by a foreign government if (i) the service is of a character
13 similar to that performed in foreign countries by employees of the
14 United States Government or of an instrumentality thereof, and (ii)
15 the division finds that the United States Secretary of State has
16 certified to the United States Secretary of the Treasury that the
17 foreign government, with respect to whose instrumentality
18 exemption is claimed, grants an equivalent exemption with respect to
19 similar services performed in the foreign country by employees of
20 the United States Government and of instrumentalities thereof;

21 (R) Service in the employ of an international organization entitled
22 to enjoy the privileges, exemptions and immunities under the
23 International Organizations Immunities Act (22 U.S.C. s.288 et seq.);

24 (S) Service covered by an election duly approved by an agency
25 charged with the administration of any other state or federal
26 unemployment compensation or employment security law, in
27 accordance with an arrangement pursuant to R.S.43:21-21 during the
28 effective period of such election;

29 (T) Service performed in the employ of a school, college, or
30 university if such service is performed (i) by a student enrolled at
31 such school, college, or university on a full-time basis in an
32 educational program or completing such educational program leading
33 to a degree at any of the severally recognized levels, or (ii) by the
34 spouse of such a student, if such spouse is advised at the time such
35 spouse commences to perform such service that (I) the employment
36 of such spouse to perform such service is provided under a program
37 to provide financial assistance to such student by such school,
38 college, or university, and (II) such employment will not be covered
39 by any program of unemployment insurance;

40 (U) Service performed by an individual who is enrolled at a
41 nonprofit or public educational institution which normally maintains
42 a regular faculty and curriculum and normally has a regularly
43 organized body of students in attendance at the place where its
44 educational activities are carried on, as a student in a full-time
45 program, taken for credit at such institution, which combines
46 academic instruction with work experience, if such service is an
47 integral part of such program, and such institution has so certified to
48 the employer, except that this subparagraph shall not apply to service

1 performed in a program established for or on behalf of an employer
2 or group of employers;

3 (V) Service performed in the employ of a hospital, if such service
4 is performed by a patient of the hospital; service performed as a
5 student nurse in the employ of a hospital or a nurses' training school
6 by an individual who is enrolled and regularly attending classes in a
7 nurses' training school approved under the laws of this State;

8 (W) Services performed after the effective date of this
9 amendatory act by agents of mutual benefit associations if the
10 compensation to such agents for such services is wholly on a
11 commission basis;

12 (X) Services performed by operators of motor vehicles weighing
13 18,000 pounds or more, licensed for commercial use and used for the
14 highway movement of motor freight, who own their equipment or
15 who lease or finance the purchase of their equipment through an
16 entity which is not owned or controlled directly or indirectly by the
17 entity for which the services were performed and who were
18 compensated by receiving a percentage of the gross revenue
19 generated by the transportation move or by a schedule of payment
20 based on the distance and weight of the transportation move;

21 (Y) (Deleted by amendment, P.L.2009, c.211.)

22 (Z) Services performed, using facilities provided by a travel
23 agent, by a person, commonly known as an outside travel agent, who
24 acts as an independent contractor, is paid on a commission basis, sets
25 his own work schedule and receives no benefits, sick leave, vacation
26 or other leave from the travel agent owning the facilities.

27 (8) If one-half or more of the services in any pay period
28 performed by an individual for an employing unit constitutes
29 employment, all the services of such individual shall be deemed to
30 be employment; but if more than one-half of the service in any pay
31 period performed by an individual for an employing unit does not
32 constitute employment, then none of the service of such individual
33 shall be deemed to be employment. As used in this paragraph, the
34 term "pay period" means a period of not more than 31 consecutive
35 days for which a payment for service is ordinarily made by an
36 employing unit to individuals in its employ.

37 (9) Services performed by the owner of a limousine franchise
38 (franchisee) shall not be deemed to be employment subject to the
39 "unemployment compensation law," R.S.43:21-1 et seq., with regard
40 to the franchisor if:

41 (A) The limousine franchisee is incorporated;

42 (B) The franchisee is subject to regulation by the Interstate
43 Commerce Commission;

44 (C) The limousine franchise exists pursuant to a written franchise
45 arrangement between the franchisee and the franchisor as defined by
46 section 3 of P.L.1971, c.356 (C.56:10-3); and

1 (D) The franchisee registers with the Department of Labor and
2 Workforce Development and receives an employer registration
3 number.

4 (10) Services performed by a legal transcriber, or certified court
5 reporter certified pursuant to P.L.1940, c.175 (C.45:15B-1 et seq.),
6 shall not be deemed to be employment subject to the "unemployment
7 compensation law," R.S.43:21-1 et seq., if those services are
8 provided to a third party by the transcriber or reporter who is referred
9 to the third party pursuant to an agreement with another legal
10 transcriber or legal transcription service, or certified court reporter or
11 court reporting service, on a freelance basis, compensation for which
12 is based upon a fee per transcript page, flat attendance fee, or other
13 flat minimum fee, or combination thereof, set forth in the agreement.

14 For purposes of this paragraph (10): "legal transcription service"
15 and "legal transcribing" mean making use, by audio, video or voice
16 recording, of a verbatim record of court proceedings, depositions,
17 other judicial proceedings, meetings of boards, agencies,
18 corporations, or other bodies or groups, and causing that record to be
19 printed in readable form or produced on a computer screen in
20 readable form; and "legal transcriber" means a person who engages
21 in "legal transcribing."

22 (j) "Employment office" means a free public employment office,
23 or branch thereof operated by this State or maintained as a part of a
24 State-controlled system of public employment offices.

25 (k) (Deleted by amendment, P.L.1984, c.24.)

26 (l) "State" includes, in addition to the states of the United States
27 of America, the District of Columbia, the Virgin Islands and Puerto
28 Rico.

29 (m) "Unemployment."

30 (1) An individual shall be deemed "unemployed" for any week
31 during which:

32 (A) The individual is not engaged in full-time work and with
33 respect to which his remuneration is less than his weekly benefit rate,
34 including any week during which he is on vacation without pay;
35 provided such vacation is not the result of the individual's voluntary
36 action, except that for benefit years commencing on or after July 1,
37 1984, an officer of a corporation, or a person who has more than a
38 5% equitable or debt interest in the corporation, whose claim for
39 benefits is based on wages with that corporation shall not be deemed
40 to be unemployed in any week during the individual's term of office
41 or ownership in the corporation; or

42 (B) The individual is eligible for and receiving a self-employment
43 assistance allowance pursuant to the requirements of P.L.1995, c.394
44 (C.43:21-67 et al.).

45 (2) The term "remuneration" with respect to any individual for
46 benefit years commencing on or after July 1, 1961, and as used in
47 this subsection, shall include only that part of the same which in any
48 week exceeds 20% of his weekly benefit rate (fractional parts of a

1 dollar omitted) or \$5.00, whichever is the larger, and shall not include
2 any moneys paid to an individual by a county board of elections for
3 work as a board worker on an election day.

4 (3) An individual's week of unemployment shall be deemed to
5 commence only after the individual has filed a claim at an
6 unemployment insurance claims office, except as the division may
7 by regulation otherwise prescribe.

8 (n) "Unemployment compensation administration fund" means
9 the unemployment compensation administration fund established by
10 this chapter (R.S.43:21-1 et seq.), from which administrative
11 expenses under this chapter (R.S.43:21-1 et seq.) shall be paid.

12 (o) "Wages" means remuneration paid by employers for
13 employment. If a worker receives gratuities regularly in the course
14 of his employment from other than his employer, his "wages" shall
15 also include the gratuities so received, if reported in writing to his
16 employer in accordance with regulations of the division, and if not
17 so reported, his "wages" shall be determined in accordance with the
18 minimum wage rates prescribed under any labor law or regulation of
19 this State or of the United States, or the amount of remuneration
20 actually received by the employee from his employer, whichever is
21 the higher.

22 (p) "Remuneration" means all compensation for personal
23 services, including commission and bonuses and the cash value of all
24 compensation in any medium other than cash.

25 (q) "Week" means for benefit years commencing on or after
26 October 1, 1984, the calendar week ending at midnight Saturday, or
27 as the division may by regulation prescribe.

28 (r) "Calendar quarter" means the period of three consecutive
29 calendar months ending March 31, June 30, September 30, or
30 December 31.

31 (s) "Investment company" means any company as defined in
32 subsection a. of section 1 of P.L.1938, c.322 (C.17:16A-1).

33 (t) (1) (Deleted by amendment, P.L.2001, c.17).

34 (2) "Base week," commencing on or after January 1, 1996 and
35 before January 1, 2001, means:

36 (A) Any calendar week during which the individual earned in
37 employment from an employer remuneration not less than an amount
38 which is 20% of the Statewide average weekly remuneration defined
39 in subsection (c) of R.S.43:21-3 which amount shall be adjusted to
40 the next higher multiple of \$1.00 if not already a multiple thereof,
41 except that if in any calendar week an individual subject to this
42 subparagraph (A) is in employment with more than one employer,
43 the individual may in that calendar week establish a base week with
44 respect to each of the employers from whom the individual earns
45 remuneration equal to not less than the amount defined in this
46 subparagraph (A) during that week; or

47 (B) If the individual does not establish in his base year 20 or more
48 base weeks as defined in subparagraph (A) of this paragraph (2), any

1 calendar week of an individual's base year during which the
2 individual earned in employment from an employer remuneration not
3 less than an amount 20 times the minimum wage in effect pursuant
4 to section 5 of P.L.1966, c.113 (C.34:11-56a4) on October 1 of the
5 calendar year preceding the calendar year in which the benefit year
6 commences, which amount shall be adjusted to the next higher
7 multiple of \$1.00 if not already a multiple thereof, except that if in
8 any calendar week an individual subject to this subparagraph (B) is
9 in employment with more than one employer, the individual may in
10 that calendar week establish a base week with respect to each of the
11 employers from whom the individual earns remuneration not less
12 than the amount defined in this subparagraph (B) during that week.

13 (3) "Base week," commencing on or after January 1, 2001, means
14 any calendar week during which the individual earned in employment
15 from an employer remuneration not less than an amount 20 times the
16 minimum wage in effect pursuant to section 5 of P.L.1966, c.113
17 (C.34:11-56a4) on October 1 of the calendar year preceding the
18 calendar year in which the benefit year commences, which amount
19 shall be adjusted to the next higher multiple of \$1.00 if not already a
20 multiple thereof, except that if in any calendar week an individual
21 subject to this paragraph (3) is in employment with more than one
22 employer, the individual may in that calendar week establish a base
23 week with respect to each of the employers from whom the individual
24 earns remuneration equal to not less than the amount defined in this
25 paragraph (3) during that week.

26 (u) "Average weekly wage" means the amount derived by
27 dividing an individual's total wages received during his base year
28 base weeks (as defined in subsection (t) of this section) from that
29 most recent base year employer with whom he has established at least
30 20 base weeks, by the number of base weeks in which such wages
31 were earned. In the event that such claimant had no employer in his
32 base year with whom he had established at least 20 base weeks, then
33 such individual's average weekly wage shall be computed as if all of
34 his base week wages were received from one employer and as if all
35 his base weeks of employment had been performed in the employ of
36 one employer.

37 For the purpose of computing the average weekly wage, the
38 monetary alternative in subparagraph (B) of paragraph (2) of
39 subsection (e) of R.S.43:21-4 shall only apply in those instances
40 where the individual did not have at least 20 base weeks in the base
41 year. For benefit years commencing on or after July 1, 1986,
42 "average weekly wage" means the amount derived by dividing an
43 individual's total base year wages by the number of base weeks
44 worked by the individual during the base year; provided that for the
45 purpose of computing the average weekly wage, the maximum
46 number of base weeks used in the divisor shall be 52.

47 (v) "Initial determination" means, subject to the provisions of
48 R.S.43:21-6(b)(2) and (3), a determination of benefit rights as

1 measured by an eligible individual's base year employment with a
2 single employer covering all periods of employment with that
3 employer during the base year.

4 (w) "Last date of employment" means the last calendar day in the
5 base year of an individual on which he performed services in
6 employment for a given employer.

7 (x) "Most recent base year employer" means that employer with
8 whom the individual most recently, in point of time, performed
9 service in employment in the base year.

10 (y) (1) "Educational institution" means any public or other
11 nonprofit institution (including an institution of higher education):

12 (A) In which participants, trainees, or students are offered an
13 organized course of study or training designed to transfer to them
14 knowledge, skills, information, doctrines, attitudes or abilities from,
15 by or under the guidance of an instructor or teacher;

16 (B) Which is approved, licensed or issued a permit to operate as a
17 school by the State Department of Education or other government
18 agency that is authorized within the State to approve, license or issue
19 a permit for the operation of a school; and

20 (C) Which offers courses of study or training which may be
21 academic, technical, trade, or preparation for gainful employment in
22 a recognized occupation.

23 (2) "Institution of higher education" means an educational
24 institution which:

25 (A) Admits as regular students only individuals having a
26 certificate of graduation from a high school, or the recognized
27 equivalent of such a certificate;

28 (B) Is legally authorized in this State to provide a program of
29 education beyond high school;

30 (C) Provides an educational program for which it awards a
31 bachelor's or higher degree, or provides a program which is
32 acceptable for full credit toward such a degree, a program of post-
33 graduate or post-doctoral studies, or a program of training to prepare
34 students for gainful employment in a recognized occupation; and

35 (D) Is a public or other nonprofit institution.

36 Notwithstanding any of the foregoing provisions of this
37 subsection, all colleges and universities in this State are institutions
38 of higher education for purposes of this section.

39 (z) "Hospital" means an institution which has been licensed,
40 certified or approved under the law of this State as a hospital.

41 (cf: P.L.2017, c.230, s.1)

42

43 15. (New section) Except as otherwise provided, the following
44 minimum terms, and such other minimum terms as may be
45 established by the department by regulation, shall apply to a work
46 relationship between a domestic worker and a hiring entity:

47 a. Written agreements. No employer shall employ a domestic
48 worker, except for casual work or work of less than five hours per

1 month, unless the engagement is governed by a written contract governing the following: a specific list of job duties; hourly wage and overtime wage; weekly schedule including number of hours per week; the manner and frequency of payment; breaks for rest and meals; paid or unpaid leave including sick time; paid holidays; any other benefits provided; modes of transportation required and whether provided; value of housing if provided; sleeping period and personal time for live-in workers; the term of the contract; and any other terms and conditions as agreed upon by the domestic worker and employer or as mandated pursuant to this act. The written agreement shall be signed and dated by all parties after ample opportunity to review.

13 b. The written agreement required under this section shall not be construed to waive the protections of domestic workers under federal, State, and local laws and shall not contain any:

16 (1) Mandatory pre-dispute arbitration agreement for claims made by a covered domestic worker against a domestic work hiring entity regarding the local rights of the worker; and

19 (2) Non-disclosure agreement, restrictive covenant, or non-disparagement agreement, limiting the ability of the covered domestic worker to seek compensation for performing domestic services after the worker ceases to receive compensation from the domestic work hiring entity for the performance of domestic services.

24 c. The agreement shall be in English and such other language as may be preferred by the worker. The hiring entity shall make reasonable efforts to determine if the worker would prefer the agreement to be in another language.

28 d. The department shall make available model contracts complying with this act shall in multiple languages on its Internet website.

31 e. A referral and employment agency shall provide domestic workers and hiring entities with information concerning the contract requirements of this act at the time a hiring entity is connected with a worker and shall make any model contracts adopted by the department available to the hiring entity.

37 16. (New section) a. The hiring entity shall allow the domestic worker an uninterrupted paid rest-period of not less than ten minutes for each four consecutive hours worked, unless the nature of the work prevents the domestic worker from being relieved of all duties for such period of time, such as some types of child care and caretaker work for a sick, elderly or disabled person. The hiring entity shall pay the domestic worker for the time spent on a rest break at the domestic worker's regular rate of pay.

45 b. The hiring entity shall allow an uninterrupted 30-minute meal break after more than five consecutive hours worked. Unless the domestic worker is relieved of all work duties during such 30-minute

1 period, the meal period shall be considered an "on-duty" meal period
2 and shall be paid at the domestic worker's regular rate of pay.

3 (1) An "on-duty" meal period shall be permitted only when the
4 nature of the work prevents a domestic worker from being relieved
5 of all duties and when, by written agreement between the parties, an
6 "on-duty" meal period is agreed to. The agreement may be revoked
7 by the domestic worker, in writing, at any time.

8 c. The hiring entity shall not impede or discourage a domestic
9 worker from taking any meal or rest breaks.

10 d. Failure to allow a meal or rest period in accordance with this
11 paragraph (1) shall entitle the domestic worker to one additional hour
12 of pay at the domestic worker's regular rate of compensation for each
13 workday that the meal or rest period was not provided. Payment of
14 this extra pay shall not excuse non-compliance with this subsection.
15

16 17. (New section) A "live-in" domestic worker shall not be
17 required to work more than six consecutive days for the same hiring
18 entity without a 24-hour period of rest, which may be unpaid.
19

20 18. (New section) a. The hiring entity shall provide a minimum
21 two-week notification period before termination of employment, and
22 for live-in domestic workers a minimum four-week notification
23 period before termination of employment. No notification period is
24 required in connection with the termination of casual work performed
25 for a hiring entity.

26 b. The hiring entity may terminate the employment without
27 complying with the full notification period based on a good-faith
28 belief that the domestic worker has engaged in significant
29 misconduct.

30 c. Failure to provide notification as required under this section
31 shall entitle the domestic worker to severance pay in the amount of
32 the worker's regular hourly rate multiplied by the regular number of
33 hours worked over the period of time during which the required
34 notification was not provided.
35

36 19. (New section) No hiring entity shall:

37 a. Keep or hold the original copies of any personal documents
38 of a domestic worker;

39 b. Monitor or record, through any means, the activities of a
40 domestic worker:

41 (1) using any bathroom or similar facility;

42 (2) in the living quarters of a domestic worker; or

43 (3) while the worker is engaged in any activities associated with
44 dressing or changing clothes; or

45 c. Monitor, record or interfere with the private communications
46 of a domestic worker.

1 20. (New section) a. A hiring entity shall provide to a domestic
2 worker notification of the rights of domestic workers under P.L. ,
3 c. (C. et seq.) (pending before the Legislature as this bill), and
4 information on how to file a complaint for violation of these rights,
5 as shall be determined by the department by regulation.

6 b. A hiring entity shall create and maintain records documenting
7 hours worked, pay rate, meals and rest breaks, leave time earned and
8 used, if applicable, and the existence of a written agreement, all
9 pursuant to requirements established by regulation by the
10 department. If a hiring entity does not maintain the required records
11 or does not allow the department reasonable access to the records, an
12 adverse inference may be drawn with respect to facts alleged
13 regarding the issues about which records were not kept.

14 c. The department shall maintain the confidentiality of all
15 records it obtains in connection with enforcement activities to the full
16 extent permitted by law.

17
18 21. (New section) a. It shall be unlawful for a hiring entity or any
19 other person to interfere with, restrain, or deny the exercise of, or the
20 attempt to exercise, any right set forth in P.L. , c. (C. et seq.)
21 (pending before the Legislature as this bill).

22 b. The minimum requirements of sections 15 through 20 of
23 P.L. , c. (C.) (pending before the Legislature as this bill)
24 shall be deemed incorporated into any contract, whether actual or
25 implied, between the employer and the domestic worker.

26 c. A material breach by a hiring entity of a contract with a
27 domestic worker shall constitute a violation of P.L. , c.
28 (C. et seq.) (pending before the Legislature as this bill), without
29 regard to whether the breach is of a provision required by this act.

30 d. No hiring entity or any other person shall take or threaten
31 retaliatory action against any person because a domestic worker has
32 exercised rights or pursued a claim of violation under P.L. , c.
33 (C. et seq.) (pending before the Legislature as this bill). These
34 rights include the right to demand compliance with protections
35 established by written agreement; the right to file a complaint or
36 inform any person about an employer's alleged violation of this act;
37 the right to cooperate with the department in any investigation
38 pursuant to this act; and the right to inform any person of the rights
39 established under this act.

40 e. No hiring entity or any other person shall communicate to a
41 person exercising rights protected under P.L. c. (C.) (pending
42 before the Legislature as this bill) the willingness or intent to contact,
43 report to, or to make an implied or express assertion to report to a
44 government agency regarding the suspected citizenship or
45 immigration status of a domestic worker or family member of a
46 domestic worker because the worker has or has expressed an intent
47 to exercise rights protected under this act or because of a belief the
48 worker may do so.

1 f. The protections of this section shall apply to any person who
2 mistakenly but in good faith alleges a violation of P.L. , c.
3 (C. et seq.) (pending before the Legislature as this bill).

4 g. It shall be considered a rebuttable presumption of retaliation
5 if the hiring entity or any other person takes an adverse action against
6 a domestic worker within 90 calendar days of the worker's exercise
7 of rights protected in P.L. c. (C. et seq.) (pending before the
8 Legislature as this bill). However, in the case of temporary or
9 seasonal employment that ended before the close of the 90 calendar
10 day period, the presumption also applies if the hiring entity fails to
11 rehire a former domestic worker at the next opportunity for work in
12 the same position. The hiring entity may rebut the presumption with
13 clear and convincing evidence that the adverse action would have
14 been taken in the absence of such protected activity.

15 h. Proof of retaliation under P.L. , c. (C. et seq.) (pending
16 before the Legislature as this bill) shall be sufficient upon a showing
17 that the hiring entity or any other person has taken an adverse action
18 against a person and the persons exercise or rights protected in
19 P.L. , c. (C. et seq.) (pending before the Legislature as this
20 bill) was a motivating factor in the absence of that protected activity.

21 i. A complaint or other communication by any person triggers
22 the protection of P.L. , c. (C. et seq.) (pending before the
23 Legislature as this bill) regardless of whether the complaint or
24 communication is in writing or makes explicit reference to P.L. , c.
25 (C.) (pending before the Legislature as this bill).

26
27 22. (New section) The department is authorized to coordinate
28 implementation, administration, and enforcement for P.L. , c.
29 (C.) (pending before the Legislature as this bill), and shall
30 promulgate appropriate guidelines and regulations to effectuate the
31 purposes of for P.L. , c. (C.) (pending before the Legislature
32 as this bill) through the Domestic Workers Standards and
33 Implementation Board, established in section 25 of P.L. , c.
34 (C.)(pending before the Legislature as this bill).

35
36 23. (New section) a. Individuals and hiring entities with an
37 overlapping employment relationship with a domestic worker are
38 subject to joint and several liability, and concurrent finds and
39 penalties, in connection with P.L. , c. (C.) (pending before
40 the Legislature as this bill).

41 b. A domestic worker or other person representing a domestic
42 worker may report to the department any suspected violation of
43 P.L. , c. (C.) (pending before the Legislature as this bill).

44 c. The department shall collaborate with the Domestic Workers
45 Standards and Implementation Board, as established by section 25 of
46 P.L. , c. (C.) (pending before the Legislature as this bill) to
47 take any steps as it deems appropriate to resolve complaints and
48 enforce P.L. , c. (C.) (pending before the Legislature as this

1 bill), including, but not limited to, establishing a system to receive
2 complaints regarding noncompliance with P.L. , c. (C.)
3 (pending before the Legislature as this bill), investigating alleged
4 violations in a timely manner and resolving complaints through a
5 separate “referral” process for claims of employees in domestic
6 services.

7 d. The department shall have the power to subpoena records and
8 testimony from any party to a complaint. The records shall be
9 provided to the department within 30 days after receipt of the
10 subpoena.

11 e. Any person alleging a violation of P.L. , c. (C.)
12 (pending before the Legislature as this bill) shall file a complaint with
13 the department within two years of the date that the person knew or
14 should have known of the alleged violation.

15 f. Upon establishment of a system of administrative
16 adjudication, the department shall have the power to impose the
17 penalties and fines for a violation of P.L. , c. (C.) (pending
18 before the Legislature as this bill), and to provide or obtain
19 appropriate relief. Remedies may include reinstatement and full
20 restitution to the domestic worker for lost wages and benefits,
21 including presumed damages to be awarded to a domestic worker for
22 the hiring entity’s violation of P.L. , c. (C.) (pending before
23 the Legislature as this bill). The department shall determine by
24 regulation an amount of presumed damages.

25 g. A hiring entity who knowingly retaliates against an employee
26 for any activity protected under P.L. , c. (C.) (pending before
27 the Legislature as this bill), or any other knowing violation of P.L. ,
28 c. (C.) (pending before the Legislature as this bill), shall be a
29 crime of the fourth degree. Otherwise, it shall be a disorderly persons
30 offense and the hiring entity shall, upon conviction for a violation,
31 be punished by a fine of not less than \$100 not more than \$2,000 for
32 an initial violation and not less than \$200 nor more than \$4,000 for
33 each subsequent violation. Each day during which any violation of
34 P.L. , c. (C.) (pending before the Legislature as this bill)
35 continues shall constitute a separate and distinct offense, and the
36 employment of any domestic worker in violation of P.L. , c.
37 (C.) (pending before the Legislature as this bill), shall, with
38 respect to each domestic worker employed, constitute a separate and
39 violation.

40 h. Any domestic worker or person who is aggrieved by a
41 violation of P.L. , c. (C.) (pending before the Legislature as
42 this bill), or the department may bring civil action in a court of
43 competent jurisdiction against a hiring entity violating P.L. , c.
44 (C.) (pending before the Legislature as this bill). Nothing in
45 P.L. , c. (C.) (pending before the Legislature as this bill) or
46 its implementing regulations shall be construed to require a
47 complaint to be filed with the department before bringing an action
48 in court. Upon prevailing in an action brought pursuant to this

1 section, an aggrieved person shall be entitled to any legal or equitable
2 relief as may be appropriate to remedy the violation, that is not
3 duplicative of any relief provided to the person in administrative
4 proceedings, including, without limitation, reinstatement in
5 employment, back pay, and injunctive relief. The aggrieved person
6 shall be entitled to an award of reasonable attorney's fees and costs.
7

8 24. (New section) a. The department shall, upon appropriation
9 of funds to the department for purposes of this section, establish and
10 maintain a Domestic Work Enforcement Program in collaboration
11 with qualified organizations. P.L. , c. (C.) (pending before
12 the Legislature as this bill) requires the department to issue a
13 competitive request to community-based organizations (CBOs) to
14 provide education and outreach services in this program and would
15 prescribe requirements for these organizations. The CBOs would be
16 responsible for developing and consulting with the department
17 regarding the core education and outreach materials, as specified.
18 The program shall increase the capacity and expertise of the
19 department to improve education and enforcement of labor standards
20 in the domestic work industry. The program shall include, but not be
21 limited to, the following:

22 (1) Education and training for domestic work employees and
23 hiring entities addressing minimum wage, overtime, sick leave,
24 recordkeeping, wage adjudication, and retaliation, along with new
25 rights extended by P.L. , c. (C.) (pending before the
26 Legislature as this bill);

27 (2) Training for domestic worker leaders to provide peer-to-peer
28 support and wraparound service referrals to domestic work
29 employees who have elected to file wage claims or take other actions
30 seeking remedy from hiring entities;

31 (3) Development of core training curriculum to be used in the
32 education and training of domestic work employees and hiring
33 entities;

34 (4) Provision of technical and legal assistance to domestic work
35 employees through a Statewide telephone help line and the promotion
36 of the help line to domestic worker populations; and

37 (5) Development of an online resource hub to provide
38 information for hiring entities on State labor laws and guidelines on
39 fair employment.

40 b. Qualified organizations that collaborate under subsection a.
41 of this section shall issue reports and meet quarterly with the
42 department to review the implementation and success of the program.

43 c. (1) A nonprofit organization that has a minimum of five years
44 of experience working with domestic work employees or hiring
45 entities; or

46 (2) An organization that works with nonprofit organizations that
47 has a minimum of five years of experience working with domestic
48 work employees or hiring entities.

1 25. (New section) a. The department shall establish, within 90
2 days of the date of enactment of P.L. , c. (C.) (pending before
3 the Legislature as this bill), a “Domestic Workers Standards and
4 Implementation Board” (Board), which shall be established to
5 provide a forum for hiring entities, domestic workers, worker
6 organizations, and the public to consider analyze, and make
7 recommendations to the State on the legal protections, benefits, and
8 working conditions for domestic worker industry standards. The
9 board shall be established to permanently promote the health, safety,
10 and well-being of domestic workers; and a living wage for domestic
11 workers along with development of the mechanisms to support
12 implementation of P.L. , c. (C.) (pending before the Legislature
13 as this bill), including the development of regulations promulgated
14 under P.L. , c. (C.) (pending before the Legislature as this
15 bill). The board shall also make recommendations to the department
16 regarding enforcement and implementation strategies, including the
17 development of the Domestic Work Enforcement Program.

18 b. (1) The board shall consist of 13 members composed of
19 members with expertise in labor standards, wage theft, law, and
20 policy; and domestic worker industry. The board shall meet at least
21 quarterly, and all meetings shall be open to the public. The board
22 shall create by-laws in order to conduct and structure future meetings
23 including, but not limited to, scheduling quarterly meetings,
24 determining recommended timetables for submission of
25 recommendations to the Legislature, the Department of Labor and
26 Workforce Development, the Governor’s Office, determining term
27 lengths and appointments of individuals to the board. All State
28 departments, agencies, boards, commissions shall support and
29 cooperate with the board and provide the board with any data it may
30 need which may include logistical support in regard to translation,
31 interpretation, and outreach to ensure equal access and equity of
32 domestic worker representatives and hiring entities on the board. The
33 board will be comprised of various stakeholders from the private,
34 non-profit sectors, domestic workers, hiring entities, and will have
35 representation from members of the Department of Labor and
36 Workforce Development, and Governor’s office; and

37 (2) (a) The Governor shall appoint seven members as follows:

38 (i) one representative from the Department of Labor and
39 Workforce Development;

40 (ii) one representative from the National Domestic Workers
41 Alliance;

42 (iii) one representative from a labor or union organization;

43 (iv) two representatives from a State-based community
44 organization or worker center, which is focused on the rights of low-
45 wage and immigrant workers;

46 (v) one domestic worker; and

47 (vi) one hiring entity; and

1 (b) The Legislature shall appoint six members as follows: three
2 members to be appointed by the President of the Senate and three
3 members to be appointed by the Speaker of the General Assembly,
4 as follows:

5 (i) four domestic workers, two each selected respectively by the
6 President of the Senate and the Speaker of the General Assembly;
7 and

8 (ii) two hiring entities, one each selected respectively by the
9 President of the Senate and the Speaker of the General Assembly.

10 c. The board's responsibilities include, but are not limited to,
11 providing a forum for hiring entities, domestic workers, worker
12 organizations, and other affected parties to share information,
13 insights, and experiences on the working conditions of domestic
14 workers, and recommendations on how the working conditions can
15 be changed to meet the needs of domestic workers and hiring entities.
16 These recommendations shall include:

17 (1) possible legislation or policy changes;

18 (2) wage standards for the industry;

19 (3) development and advancement of enforcement and
20 implementation efforts in collaboration with the department; and

21 (4) the promulgation of regulations to enforce P.L. , c.
22 (C.) (pending before the Legislature as this bill).

23 d. The board, in consultation with the department and other State
24 agencies, within six months after all members have been established,
25 shall submit to the Governor, and Legislature, pursuant to section 2
26 of P.L.1991, c.164 (C.52:14-19.1), with oversight by the department,
27 a work plan identifying the topics the board will address in the first
28 two years. The board in consultation with the department and other
29 relevant State agencies, shall submit an updated work plan every two
30 years. The board's first recommendation shall be submitted to the
31 Governor and Legislature by the end of the first quarter of the year
32 following the year in which the work plan has been submitted.

33 Within 120 days from the date of receipt of any work plan
34 submitted by the board, the Legislature, through its committees that
35 consider labor subject matter, shall consider and respond to the
36 board's work plan. The response shall include proposed legislation
37 and policies, requests for additional information needed from the
38 board, requests for alternative plans from the board, reasons for
39 rejection of any plan submitted by the board, or an explanation of
40 why additional time is needed to submit a response to the board's
41 plan. Additionally, the Legislature, sua sponte, may notify the board
42 of any policies or legislation it may introduce for enactment, request
43 further information from the board, request that the board develop
44 alternatives, or take any other action that it deems appropriate.

45 e. The board shall make recommendations to the Legislature on
46 the following subjects:

47 (1) Wage standards, such as industry standards, overtime, and
48 pay differentials;

1 (2) Training for hiring entities and domestic workers on federal,
2 State, and local labor laws, benefits, and protections, discrimination,
3 and sexual harassment, workplace health; and safety standards;

4 (3) Jobs skills and professional development opportunities;

5 (4) Access to portable benefits, such as paid time off, retirement
6 pensions, health benefits, and paid family and disability leave;

7 (5) Workers' compensation and temporary disability benefits;

8 (6) Development and advancement of written agreement,
9 including notice of rights and recordkeeping templates;

10 (7) Outreach and enforcement strategies to ensure compliance
11 with P.L. , c. (C.) (pending before the Legislature as this
12 bill), and to provide effective information to both hiring entities and
13 domestic workers; and

14 (8) Any other emerging issues the board wishes to include in its
15 work plan.

16 f. Members of the board shall serve without compensation but
17 shall be reimbursed for the reasonable travel and other out-of-pocket
18 expenses incurred in the performance of their duties.

19
20 26. (New section) a. Nothing in P.L. , c. (C.) (pending
21 before the Legislature as this bill) shall be construed to diminish any
22 rights or protections granted to domestic workers by any other law.

23 b. If any provision of P.L. , c. (C.) (pending before the
24 Legislature as this bill) or its application to any person or
25 circumstance is held invalid, the invalidity does not affect other
26 provisions or applications of P.L. , c. (C.) (pending before
27 the Legislature as this bill) which can be given effect without the
28 invalid provision or application, and to this end the provisions of
29 P.L. , c. (C.) (pending before the Legislature as this bill) are
30 severable.

31
32 27. This act shall take effect on the first day of the sixth month
33 next following enactment, except that the commissioner may take
34 any anticipatory action as may be necessary to effectuate the
35 purposes of this act.

36 37 38 STATEMENT

39
40 This bill creates various rights and employment protections for
41 domestic workers who, under the bill, are defined as hourly and
42 salaried employees, independent contractors, full-time and part-time
43 individuals and temporary individuals, and any worker who:

44 (1) works for one or more employer; and

45 (2) is an individual who works in the residence of the employer
46 for the purposes of caring for a child, serving as a companion or
47 caretaker for a sick, convalescing, or elderly person, or a person with
48 a disability; housekeeping or house cleaning; cooking; providing

1 food or butler service; parking cars; cleaning laundry; gardening;
2 personal organizing; or for any other domestic service purpose.

3 The bill excludes from the definition of domestic worker any
4 individual taking care of or providing services to that individual's
5 family member; an individual primarily engaged in house sitting, pet
6 sitting, or dog walking; an individual working at a business operating
7 out of a residence, such as a home daycare business; an individual
8 whose primary work involves house repair or maintenance, such a
9 roofer, plumber, or other similar contractor; a home health care aide
10 while the aide is paid through public funds; an individual established
11 as a kinship legal guardian of a child who lives in the residence, or
12 an individual who participates in the Kinship Navigator Program, as
13 authorized by the Department of Children and Families, as a
14 caregiver of a child who lives in the residence and receives services
15 provided by a kinship navigator service provider; and an individual
16 less than 18 years of age.

17 The bill removes the exclusion of the domestic worker from the
18 "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.)
19 and the "New Jersey State Wage and Hour Law," P.L.1966, c.113
20 (C.34:11-56a et seq.).

21 The bill also provides privacy rights to domestic workers, and it
22 requires the employer or hiring entity to enter into a written contract
23 with the domestic worker.

24 The bill establishes penalties for violations of its provisions,
25 including penalties against retaliation by the employer or hiring
26 entity.

27 The bill creates the Domestic Workers Standards and
28 Implementation Board to monitor and review the implementation of
29 the bill and make policy recommendations to the State regarding
30 additional measures to be taken.